



**Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission
Harrisburg, Pennsylvania**

MINUTES

109th Meeting

Volume 65

**HARRISBURG, PENNSYLVANIA
JANUARY 23, 2014**

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Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Minutes

The 109th Meeting of the Pennsylvania Fish and Boat Commission was held on Wednesday and Thursday, January 22 and 23, 2014, at the Pennsylvania Fish and Boat Commission headquarters, Harrisburg, PA 17110.

Commission committees met on January 22 beginning at approximately 1:40 p.m. and on January 23 beginning at approximately 8:15 a.m. The public session for review of this agenda began at or about 10:15 a.m. on January 23.

Call to Order

The meeting was called to order by Commission President G. Warren Elliott and followed by the Pledge of Allegiance to the Flag.

Roll Call

Members Present

G. Warren Elliott, President

Rocco S. Ali

Robert A. Bachman

Steven M. Ketterer

Leonard L. Lichvar

Edward P. Mascharka III

William J. Sabatose

Glade E. Squires

William R. Worobec

Members Not Present

Norman R. Gavlick, Vice-President

Introduction of Guests

Commission President Elliott introduced special guests, Colonel John Kovac and Major Michael Gundrum from the Pennsylvania Army National Guard. Robert Full, Chief Deputy Director, Norm Auvil and Bud Mertz were present from the Pennsylvania Emergency Management

Agency. Josh Zimmerman, liaison for the Governor's Advisory Council for Hunting, Fishing and Conservation, was also acknowledged.

Review and Approval of Minutes from the October 1, 2013 Meeting

A motion was made by Commissioner Sabatose and seconded by Commissioner Squires to approve the October 1, 2013 minutes as written. Motion carried.

Awards and Presentations

The 2013 Stanley Long Outstanding Volunteer Service Award was presented to Scott A. Grahn. The Outstanding Volunteer Service Award Program was created in 2003 to publicize and recognize the contributions made to Pennsylvania anglers and boaters by Commission volunteers. The program identifies and honors the Commission's most exemplary and inspiring volunteer. Although volunteers are best characterized as unsung heroes, their tireless efforts and voluminous contributions augment and ensure public safety and provide services to countless Commonwealth anglers and boaters. The award serves as a memorial to long-time volunteer Stanley Long.

A Habitat Appreciation Award was presented to the Cambria County Conservation District (CCCD). The CCCD has been a valuable partner to the Commission's Division of Habitat Management over the past six years. They have gone above and beyond the Commission's average habitat partners by pulling in grants for project materials and staff reimbursement, which enables the Commission to accomplish more habitat work on the waters of Cambria County. Since 2007, the CCCD has partnered with the Commission's Lake Habitat Section to place 782 habitat structures in three reservoirs. Several of those 782 structures stabilized 4,010 feet of eroded shoreline while improving angler access. The CCCD is also a valued partner to the Commission's Stream Habitat Section. Since 2009, they have worked together to construct 149 stream habitat devices on three streams. Those projects have improved 1.4 miles of degraded stream. The CCCD's good work will continue into the future as they have leveraged additional grant funding for staff time and materials for five more projects improving three miles of stream in Cambria County. The CCCD was given a Certificate of Appreciation for contributing significant time and resources toward the betterment of fish habitat and supporting the mission of the Commission.

A Lifesaving Award was presented to Waterways Conservation Officer (WCO) Douglas L. Deppen for his efforts to save lives under extraordinary circumstances. On Wednesday, July 24, 2013, while on uniformed patrol traveling on State Route 322 in South Londonderry Township, Lebanon County, WCO Deppen was first on the scene at a traffic collision involving a motorcycle and automobile. WCO Deppen located the motorcycle operator and recognized that the individual had sustained serious bodily injuries. WCO Deppen notified Lebanon County Emergency Response and monitored and treated the severely injured victim for approximately 20 minutes until the first emergency medical services unit arrived on the scene. WCO Deppen then assumed traffic control efforts. Many thanks to Officer Deppen for his quick actions associated with this incident.

A Lifesaving Award was presented to Waterways Conservation Officer (WCO) John R. Cummings for his lifesaving efforts at Harvey's Lake, Luzerne County. On August 17, 2013, WCO Cummings was on routine patrol at Harvey's Lake when he responded to a radio call from the Commission's access area regarding an automobile accident. Upon arrival at the boat house, he observed several individuals performing CPR on the victim. WCO Cummings cycled in, providing chest compressions and detecting pulse response and movement. Emergency Medical Services arrived, taking over emergency care. WCO Cummings then assisted with getting the litter ready and lifting the victim into the ambulance. WCO Cummings is to be commended for his immediate response during this medical emergency.

A Lifesaving Award was presented to Bernard M. Matscavage for his heroic efforts during a boating rescue. On September 20, 2013, David and Cathay Clark capsized their canoe on the Susquehanna River, Dauphin County. Bernie was fishing not far from the scene, saw the incident take place and quickly paddled over to assist. Thanks to Bernie's quick thinking and swift actions, the victims sustained no injuries. The Commission is proud to have employees like Bernie and he is to be commended for his actions.

The "Wave of Excellence" Award was presented to Carol Miller, Human Resource Analyst, Human Resource Office. In keeping with Executive Director Arway's interest in recognizing a job well done, the Commission implemented an employee recognition program entitled the "Wave of Excellence" Award program. The concept is for Commission employees to recognize other Commission employees who have gone above and beyond the call of duty in performing their work or who have provided extraordinary customer service. Carol Miller is the fourth recipient to receive the "Wave of Excellence" Award or the "WE" Award. Carol was nominated by a fellow co-worker and the third recipient of the award, Susan Hoopsick. Carol is known to put "we" (the Commission) above "me." As winner of the "Wave of Excellence" Award, Carol will be permitted to keep the award for six months before passing it on.

Executive Director's Report

Executive Director John Arway highlighted the "October – December 2013 Quarterly Report" (Exhibit A) that was provided to Commissioners and gave a review of his recent activities and upcoming events.

Announcement of Notational Votes (Exhibit B)

The Commission voted on one item by notational vote since the October 2013 meeting. This item relates to the Commission's approval of May 5 and 6, 2014 as the dates for the regular spring meeting of the Commission. The dates originally established for the regular spring meeting of the Commission were April 28 and 29, 2014.

Announcement of Executive Session

Commissioner Elliott announced that an executive session was held on January 22 at 12:30 p.m. to discuss personnel, real estate and litigation matters.

Reports of Commissioner Committees

Executive and Administrative (Commissioner Elliott) –

The Executive and Administrative Committee met on Wednesday, January 22, at approximately 1:40 p.m. Agenda items were discussed, and Commissioner Worobec abstained from discussion and voting on items relating to oil and gas leasing and water access. Bernie Matscavage provided an update on the license button effort, and Steve Kralik unveiled the Angler Thank You Campaign.

Boating (Commissioner Ketterer) –

The Boating Committee did not meet.

Fisheries (Commissioner Mascharka) –

The Fisheries Committee met on Wednesday, January 22, at approximately 3:10 p.m. Agenda items were discussed, and Brian Wisner provided a hatchery update.

Habitat and Environmental (Commissioner Ali) –

The Habitat and Environmental Committee met on Wednesday, January 22, at approximately 2:50 p.m. Agenda items were discussed.

Law Enforcement (Commissioner Ketterer) –

The Law Enforcement Committee met on Thursday, January 23, at approximately 8:15 a.m. Agenda items were discussed. Updates were given on the Fish Kill hotline and Marcellus shale enforcement efforts. Captain Tom Burrell provided a presentation on special investigations.

The Committee acted upon proposed revocations. The Committee revoked the fishing privileges of one individual for a period of four years and one individual for a period of three years. The Committee also revoked the commercial fishing privileges of one individual for one year effective February 1, 2014.

The Committee held an executive session by telephone on January 11, 2014 at 1:00 p.m. to consult with agency counsel regarding its adjudication with respect to the revocation of commercial fishing privileges.

Legislation and Public Outreach (Commissioner Sabatose) –

The Legislation and Public Outreach Committee did not meet.

Public Comment to Commissioners and Staff

There were no comments or questions from the public.

EXECUTIVE AND ADMINISTRATIVE FINAL RULEMAKING

A. Amendment to Section 51.32 (Resident and Nonresident Licenses).

Commentary:

Pursuant to the Commission's regulations at 58 Pa. Code §51.32(d), a Senior Resident Lifetime Fishing License becomes invalid when the holder establishes residency in another state. While not as specific as §51.32(d), §51.32(a) and (c) have been interpreted to mean that other fishing licenses become invalid upon a change in residency.

With the advent of multi-year fishing licenses, staff anticipate some confusion arising among anglers who purchase a multi-year license, move out-of-state, and expect to be able to continue fishing with the multi-year license. Staff believe that the benefits of providing clarity to anglers and encouraging fishing outweigh any revenue to be gained by requiring license holders to purchase a new fishing license after they change their state of residence. License holders will still be required to display their license and possess a positive means of identification as required by section 2703(a) of the Fish and Boat Code, 30 Pa. C.S. §2703(a).

The Commission proposed to amend §51.32 to provide that a resident fishing license will remain valid for the year or years for which it is issued regardless of whether the holder is no longer a bona fide resident of this Commonwealth. A notice of proposed rulemaking was published at 43 Pa. B. 5462 (September 14, 2013) (Exhibit C). The Commission did not receive any public comments regarding this proposal.

Briefer:

Timothy D. Schaeffer, Director, Office of Policy and Planning

Recommendation:

Staff recommend that the Commission adopt the proposed amendment as set forth in the notice of proposed rulemaking. If adopted, this amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Squires and seconded by Commissioner Mascharka to adopt the proposed amendment as set forth in the notice of proposed rulemaking. This amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

B. Amendments to Section 93.2 (Permanent and Temporary Registration) and Section 93.13 (Issuing Agents) to Eliminate Temporary Validation Decals.

Commentary:

Currently, the Commission and authorized issuing agents issue temporary boat registrations to persons applying for the registration of boats in Pennsylvania. Temporary boat registration is used for boats that are new or were not previously registered in Pennsylvania, boats being transferred between owners, and boats currently registered in Pennsylvania as unpowered that are being changed to a power boat registration status. Under current regulations, applicants complete form REV-336, *Application for Pennsylvania Boat Registration and/or Title*, and are issued a Temporary Validation Decal (T-decal) to affix to the boat.

Annual cost to the Commission to produce, distribute and account for the T-decals is estimated to be \$42,000. The Commission proposes to eliminate the use of the T-decal in order to save approximately \$42,000 annually in decal production costs, postage for mailing decals to issuing agents and personnel costs associated with accounting and inventorying of the decals. Elimination of the T-decals will also result in a time and cost savings to issuing agents in that they will no longer have to issue T-decals, maintain a supply or pay \$52.00 for each lost decal.

Issuing agents will continue to collect all currently required registration information on form REV-336. Form REV-336 is a carbonless, three-copy form used in the registration process. The green copy, or customer copy, is provided to the applicant upon completion of the registration process by the issuing agent. Boaters will continue to be required to produce the green customer copy of form REV-336 to verify a temporary registration but will no longer be required to display T-decals on the side of the boat that has been registered.

Currently, boaters must remove any previously issued or expired registration decals from the boat. With the elimination of the T-decals, an empty space following the registration number sequence on the hull of the boat will indicate that the boat may have a temporary registration status. Upon request by a Waterways Conservation Officer (WCO), a boater will be required to produce the green customer copy of form REV-336 as proof of the temporary registration. Elimination of the T-decal will not change the current requirement to carry and produce the customer copy of form REV-336. It is also expected that elimination of the T-decal may increase customer contact between boaters and WCOs and provide WCOs with an opportunity to share additional educational information with boaters.

The Bureaus of Law Enforcement, Boating and Outreach, and Administration support the proposal to eliminate the T-decal as part of the temporary boat registration process. On May 8, 2013, the Boating Advisory Board considered this proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendments.

A notice of proposed rulemaking containing the amendments was published at 43 Pa. B. 5463 (September 14, 2013) (Exhibit D). The Commission did not receive any public comments concerning this proposal.

Briefer:

Bernard M. Matscavage, Director, Bureau of Administration

Recommendation:

Staff recommend that the Commission adopt the proposed amendments as set forth in the notice of proposed rulemaking. If adopted, these amendments will go into effect on April 1, 2014 or upon publication in the *Pennsylvania Bulletin*, whichever occurs later.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Mascharka to adopt the proposed amendments as set forth in the notice of proposed rulemaking. These amendments will go into effect on April 1, 2014 or upon publication in the *Pennsylvania Bulletin*, whichever occurs later. Motion carried.

PROPOSED RULEMAKING

C. Amendment to Section 63.20 (Permits for the Protection and Management of Trout and Salmon).

Commentary:

Pursuant to 58 Pa. Code § 63.20(d)(3), a person who purchases a senior resident lifetime fishing license and who desires to fish for trout or salmon is required to purchase one trout/salmon permit and is then exempt from the requirement to purchase a trout/salmon permit for subsequent years. This effectively means that those licensees may purchase one trout/salmon permit that is valid for the licensee's lifetime. About 70% of seniors purchase a trout/salmon permit, which mirrors the rate for other anglers.

Since it was instituted in 1979, the Commission has sold 463,714 senior resident lifetime fishing licenses. In 1979, that category of license sales accounted for 1.31% of total license sales (13,179 out of 1,004,003). When license sales peaked in 1990, the sale of senior resident lifetime fishing licenses also reached an all-time high of 18,645. As Pennsylvania's population has aged, so too has the percentage of senior resident lifetime fishing licenses compared to total license sales, with that category accounting for 1.97% of total sales in 2013 (17,004 out of 860,672).

Even more significantly, senior resident lifetime fishing licenses have grown to comprise nearly 50% of all senior licenses sold. Residents 65 years of age and older may purchase either a senior resident lifetime fishing license for \$50 or a senior resident annual fishing license for \$10. In 1979, senior resident lifetime licenses and senior resident annual licenses totaled 87,247, but the lifetime category only accounted for 15.11% of that total. In 2013, of the 34,790 combined senior resident lifetime and senior resident annual licenses, 48.9% were for the lifetime license. As Pennsylvania's seniors continue to account for a larger percentage of the total population (and of anglers), the relative number of anglers buying the lifetime license is expected to continue to rise.

According to the Commission's report *Stocked Trout Program: Cost Report* (March 2009), the Commission's trout program accounts for 36% of the Fish Fund annual expenditures, and the cost of trout production continues to rise. The Commission can no longer afford to allow anyone required to purchase a senior resident lifetime fishing license to fish for trout without paying for the privilege to do so annually.

One thing that the Commission can do by regulation is to require all senior resident lifetime license holders to purchase a trout/salmon permit each year that the license holder desires to fish for trout. At the same time, the Commission can establish that any senior resident lifetime license holder who purchased a trout/salmon permit before a certain date shall remain exempt from the requirement to purchase a permit annually. To use a common term, those individuals will be "grandfathered."

With the grandfathering clause, there will be no additional revenues generated in the first year of the proposed regulatory change, since all of the licensees who purchase a permit

under the regulation will presumably buy it anyway. Assuming senior resident lifetime license holders continue to make up about 50% of all senior license buyers, an estimated 8% drop in sales and associated federal funds due to the new annual requirement, and 70% of seniors will continue to purchase a trout/salmon permit, staff estimate the generation of about \$300,000 in additional annual revenues by the fifth year that the change is in place.

Estimated Revenues for Requiring the Annual Purchase of a T/S Permit for Senior Lifetime Holders	Year 1	Year 2	Year 3	Year 4	Year 5
<i>Life Rate Adjustment Factors >></i>	0%	98.55%	96.90%	95.18%	93.34%
Additional Trout/Salmon Permit Revenues	\$ -	\$ 75,778.56	\$150,287.77	\$223,478.32	\$295,254.44
Additional Trout/Salmon Permit Revenues from Combination T/S & Lake Erie Permit	\$ -	\$ 14,033.63	\$ 27,832.18	\$ 41,386.52	\$ 54,678.92
Less Loss of License Revenue	\$ -	\$ (11,062.19)	\$ (11,062.19)	\$ (11,062.19)	\$ (11,062.19)
Less Loss of Federal Funds	-	(1,106.22)	(1,106.22)	(1,106.22)	(1,106.22)
Net Additional Revenue	\$ -	\$ 77,643.78	\$165,951.54	\$252,696.44	\$337,764.96

Similar to § 63.20(d)(3), a person who purchases a senior resident lifetime license and fishes in Lake Erie or its tributaries is only required to purchase one special permit to fish in Lake Erie and its tributaries which is valid for the licensee's lifetime pursuant to 30 Pa. C.S. §2907.2(c). Requiring those anglers to purchase a special permit to fish in Lake Erie and its tributaries annually will require an act of the General Assembly.

In preparing this agenda item, staff also noted the need for a number of technical changes to 58 Pa. Code § 63.20.

In § 63.20(b), eliminating the list of licenses to which the requirement applies makes it clear that any license holder must possess a trout/salmon permit or a combination trout/salmon permit and Lake Erie permit to fish for trout. While 30 Pa. C.S. §2907.2(c) already requires all anglers to have a special permit to fish in Lake Erie and tributaries or a combination trout/salmon permit and Lake Erie permit to fish in those parts of the Lake Erie watershed, adding the combination trout/salmon permit and Lake Erie permit makes it clear that the license holder must have a valid permit to fish for trout in other parts of the Lake Erie watershed (e.g., lakes stocked with trout).

Since license holders no longer need to affix a stamp to their license, that requirement in § 63.20(b) should be deleted.

Because the Commission no longer issues trout stamps, § 63.20(c) is no longer necessary and should be deleted.

Staff therefore propose that §63.20 be amended as follows:

§ 63.20. Permits for the protection and management of trout and salmon.

* * *

(b) *Permit required.* It is unlawful for a person required by Chapter 27 of the code (relating to fishing licenses) to procure a [**resident**] fishing license, [**a nonresident fishing license, a senior resident lifetime fishing license or an annual senior resident fishing license,**] to fish for trout or salmon unless that person has first procured a valid trout/salmon permit **or a combination trout/salmon permit and Lake Erie permit** [**and affixed it to his fishing license**].

(c) [***Form.* Trout/salmon permits issued under this section shall be in the form of a stamp which shall be affixed to the person's fishing license and signed over the face of the stamp. The stamp shall bear a design as may be approved by the Commission together with the year for which it is valid.**]

[(**d**)] *Exceptions.*

* * *

(3) A person who purchased a senior resident lifetime fishing license **and a trout/salmon permit or a combination trout/salmon permit and Lake Erie permit** prior to January 1, [**1991**] **2015**, shall be exempt from the requirements of this section. [**A person who purchases a senior resident lifetime fishing license after January 1, 1991, who desires to fish for trout or salmon shall be required to purchase one valid trout/salmon permit and affix it to his fishing license and shall be exempt from the requirements of this section for second and subsequent years.**]

* * *

[(**e**)] (**d**) *Fish for trout or salmon.* A person fishes for trout or salmon when one of the following applies:

* * *

Briefer:

Timothy D. Schaeffer, Director, Office of Policy and Planning

Recommendation:

Staff recommend that the Commission approve the publication of a notice of proposed rulemaking containing the proposed amendments described in the Commentary. If adopted on final rulemaking, these amendments will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Squires to approve the publication of a notice of proposed rulemaking containing the proposed amendments described in the Commentary. If adopted on final rulemaking, these amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

OTHER MATTERS

D. Voluntary Youth Fishing License.

Commentary:

Goal 3 of the agency's Strategic Plan is to "increase youth and family participation in fishing, boating, and aquatic resource education programs." This goal responds to the fact that the percentage of youths ages 6-15 who fished in Pennsylvania in 2010 was only 24%, as compared to 41% in 1995 and 37% as recently as 2005.

In July 2013, the United States Fish and Wildlife Service confirmed that voluntary licenses that return net revenue to a state can be counted as part of the state's annual license certification process under the Sport Fish Restoration Act program. For each voluntary license sold, the Commission will receive an estimated \$5.00 in federal revenue.

According to the *2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation*, 367,000 youths ages 6-15 fished in Pennsylvania in 2010. If a \$1.00 voluntary youth fishing license were purchased by or for even 25% of those 367,000 children, it would result in over \$550,000 in revenue for the Commission to invest in youth programs. Regardless of the amount generated, all revenues earned from a voluntary youth fishing license will be dedicated to youth programs.

The potential market for voluntary youth license sales goes beyond the youth anglers and their family and friends. Clubs, organizations, businesses, individuals and others who are interested in promoting youth angling could purchase large quantities of voluntary youth license vouchers to distribute to children. While the Commission will receive the face value of the voucher at the time of the purchase, it will not be counted as a license sold until redeemed by an individual. Once redeemed, buyers are issued a license and a customer identification number (CID).

Having unique CIDs allows the Commission to analyze patterns and trends, tailor messages and programs, and correspond directly with customers. For example, it allows the Commission to track the long-term retention of youth anglers and also provides a vehicle for communicating directly with youths and their families about targeted outreach and education programs and marketing initiatives.

Because a voluntary youth fishing license will not be required to fish, it does not need to be established formally either by legislation or regulation. Nevertheless, staff wish to obtain approval from the Board of Commissioners before moving forward with the concept.

Briefer:

Timothy D. Schaeffer, Director, Office of Policy and Planning

Recommendation:

Staff recommend that the Commission approve the creation of a voluntary youth fishing license, the details of which will be established by the Executive Director.

Action:

A motion was made by Commissioner Worobec and seconded by Commissioner Squires to approve the creation of a voluntary youth fishing license, the details of which will be established by the Executive Director. Motion carried.

E. Ingham Springs, Solebury Township, Bucks County.

Commentary:

At its July 1999 meeting, the Commission approved the transfer of its +/- 48-acre property located in Solebury Township, Bucks County, known as Ingham Springs, to Solebury Township. The Commission approved the transfer for fair market with the understanding that the Township would repair the dam located on the property.

The Commission formally conveyed the property to the Township on September 24, 2009 with restrictions, reservations and covenants that allowed the Commission to accomplish many of its original objectives for acquiring the property while minimizing maintenance and operational burdens. Consideration for the conveyance was \$1,251,000 (the property's fair market value), which consisted of \$414,000 payable to the Commission at closing and \$837,000, the Township's estimated costs to repair the dam. Under the cooperative agreement between the parties, the Township agreed to repair or replace the dam within five years from the date of closing on the property conveyance.

Subsequent to the transfer of the property, Township and Commission staff determined that repair or replacement of the dam is not in the best interest of the resource and that the removal of the existing dam and restoration of the natural stream channel will provide for a wider variety of public recreational and educational opportunities in a natural setting. After considerable public input and investigation of alternative site improvement options, the Township's board of supervisors voted at its October 2013 meeting to approve a site improvement project that calls for the removal of the existing dam and for the restoration of the stream channel on Aquetong Creek to its natural flowing condition. It is estimated that the alternative stream channel improvement project will exceed \$1.2 million dollars.

Commission staff and the U.S. Fish and Wildlife Service support the alternative project, and the Commission's Division of Habitat Management is working with the Township's consulting engineer on a final project design.

Briefer:

Mark H. Mitchell, P.L.S., Chief, Property Services Section, Division of Public Access and Property Services

Recommendation:

Staff recommend that the Commission approve the alternative site improvement project that provides for the removal of the existing dam on the property and for the restoration of the stream channel on Aquetong Creek.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Worobec to approve the alternative site improvement project that provides for the removal of the existing dam on the property and for the restoration of the stream channel on Aquetong Creek. Motion carried.

F. Disposition of the Pleasant Gap State Fish Hatchery Manager's Dwelling Parcel, Centre County.

Commentary:

The Commission owns land and operates a fish hatchery at Pleasant Gap in Benner Township, Centre County, known as the Pleasant Gap State Fish Hatchery. Historically, the Commission required the hatchery manager and/or foreman to reside in Commission provided housing at the hatchery in order to address emergencies. However, due to the advancement of technology, the Commission found it unnecessary to require hatchery staff to reside at its hatcheries.

The manager's dwelling at the Pleasant Gap State Fish Hatchery has been vacant since 2009. The manager's dwelling is a wood frame bi-level that has three bedrooms, living room, dining room, family room, laundry room and an internal two car garage. The water and sewer services are provided by the hatchery. The vacant dwelling was constructed in the early 1980s and is located on a standalone +/-3.5-acre tax parcel as shown on Exhibit E. The dwelling and parcel are separated from the rest of the hatchery by a public road.

It is highly unlikely that the Commission will ever utilize the parcel for hatchery operations. Therefore, it is in the Commission's best interest to dispose of the dwelling and parcel and utilize the proceeds to address other agency needs. The parcel was acquired using Project 70 funding, and its sale will require legislation to authorize the disposition.

Staff recommend disposing of the property using the following guidelines:

- Retain the services of an auctioneer or realtor to assist in the sale of the parcel.
- Place the parcel up for public bid after a reasonable period of marketing.
- Send an invitation to bid to all parties that have expressed an interest in the parcel.
- Utilize the appraised value provided by a Pennsylvania licensed certified appraiser as a guide when evaluating bids received.
- Convey the property by quitclaim deed with no warranty as to use to the highest responsible bidder who will be responsible for all transaction costs.

Briefer:

Mark H. Mitchell, P.L.S., Chief, Property Services Section, Division of Public Access and Property Services

Recommendation:

Staff recommend that the Commission authorize the disposition of the property described in the Commentary.

Action:

A motion was made by Commissioner Bachman and seconded by Commissioner Worobec to authorize the disposition of the property described in the Commentary. Motion carried.

G. Easement Disposition at Speedwell Forge Lake, Elizabeth Township, Lancaster County.

Commentary:

The Commission owns a +/-310-acre tract of land and easements in Elizabeth Township, Lancaster County, known as Speedwell Forge Lake. The Commission's Southeast Regional Maintenance and Law Enforcement offices are located there.

Staff were recently contacted by a neighboring property owner requesting documentation pertaining to an easement for an existing driveway across Commission property. The neighboring property is the residue of property purchased by the Commission while assembling properties for the development of the lake. The location of the driveway is shown on Exhibit F.

Upon researching the matter, staff discovered that there was no formal legal authorization for the driveway. However, a review of the files shows that the Commission made a commitment in the original agreement of sale for the Commission property to provide and allow for the driveway. The driveway commitment was confirmed in other file correspondence. Without the allowance for the driveway, the neighboring property that is serviced by the driveway would be landlocked as a result of the Commission's original property purchase.

In order to rectify the past omission, staff propose granting a deed of easement to the neighboring property owner. The easement will allow for access for residential and agricultural purposes and will only service the neighboring property that is a residue of the Commission's original acquisition. The disposition will be contingent upon a land survey to delineate the required driveway easement and staff performing the necessary due diligence.

Briefer:

Mark H. Mitchell, P.L.S., Chief, Property Services Section, Division of Public Access and Property Services

Recommendation:

Staff recommend that the Commission authorize the disposition of the easement as more particularly described in the Commentary.

Action:

A motion was made by Commissioner Bachman and seconded by Commissioner Mascharka to authorize the disposition of the easement as more particularly described in the Commentary. Motion carried.

H. Ground Lease Amendment for Commission's Elmerton Avenue Headquarters Property, Dauphin County.

Commentary:

On October 2, 2012, the Commission authorized the grant of a public transportation easement to the Pennsylvania Department of Transportation (PennDOT). The easement is needed in order to address increased traffic and development in the area. In return for the easement, the Commission receives public safety benefits for employees and visitors in the form of a modern traffic control device located at the highly congested intersection of State Farm Drive and Elmerton Avenue.

The conveyance of the easement was made contingent upon the approval of the Dauphin County Industrial Development Authority (DCIDA), which holds a ground lease on the property upon which the Commission's Elmerton Avenue headquarters sits. DCIDA and the Commission entered into this ground lease as part of the financing arrangement for the headquarters building. DCIDA has conditioned its approval of the right of way upon amendment of this ground lease as the terms of the lease do not presently allow the Commission to grant easements such as the one needed by PennDOT. Commission staff and DCIDA have negotiated an amendment to the ground lease which specifically allows the Commission to grant the public transportation easement to PennDOT. All other terms of the ground lease remain unchanged.

Briefer:

Mark H. Mitchell, P.L.S., Chief, Property Services Section, Division of Public Access and Property Services

Recommendation:

Staff recommend that the Commission approve the amendment of the ground lease with the Dauphin County Industrial Development Authority as more particularly described in the Commentary.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Squires to approve the amendment of the ground lease with the Dauphin County Industrial Development Authority as more particularly described in the Commentary. Motion carried.

I. Removal of Funding Restriction in Statewide Natural Gas Leasing Program.

Commentary:

At a special meeting of the Commission on March 7, 2011, the Commission approved the establishment of the Natural Gas Leasing Program and authorized the Executive Director to investigate non-developmental or non-surface disturbance natural gas lease opportunities on Commission-owned properties. The purpose of the Commission's Natural Gas Leasing Program is to ensure that properties purchased with angler and boater dollars are wisely managed for the recreational and economic benefit of the angler and boater and that Pennsylvania's anglers and boaters, today and in the future, are provided with the highest quality fishing and boating opportunities through the wise management and use of those properties.

When establishing the Program, the Commission directed that revenues generated from natural gas leasing projects be used to fund programs and projects that support the agency's mission in the form of capital improvements, habitat restoration and enhancements, public access and innovative environmental projects, with highest priority being given to the repair of the 16 Commonwealth-owned high hazard dams managed by the Commission. Other potential projects which were to be considered after top priority infrastructure needs were met included habitat restoration and enhancement projects, public access, and innovative environmental research projects.

Briefer:

John A. Arway, Executive Director

Recommendation:

Staff recommend that the Commission remove the restriction on how funds generated from the Statewide Natural Gas Leasing Program must be used.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Sabatose to remove the restriction on how funds generated from the Statewide Natural Gas Leasing Program must be used. Motion carried.

Commissioner Worobec abstained because of concerns over a possible conflict of interest.

FISHERIES

FINAL RULEMAKING

A. Addition of Section 65.20 (Mentored Youth Fishing Day Program).

Commentary:

Most often, parents or guardians are the source of both instruction and serve as mentors to young anglers and hunters. The role of a mentor is that of long-term development and socialization. An instructor can teach someone to fish, while a mentor helps them become an angler (Duda M.D., 2010). That is, while proper instruction is important, it alone does not guarantee adoption. This is especially true if a mentor or other social support is absent.

Benefits of these mentored experiences also extend to the parents or mentors. A 2007 survey of Pennsylvania's trout anglers showed that 98% of those surveyed would go trout fishing more if asked by a child (Responsive Management, 2008). Of that number, 84% indicated that being asked by a child to take them fishing was a strong encouragement to go trout fishing more in Pennsylvania.

Mentored opportunities differ from educational programs significantly in that mentored experiences extend beyond the instructional period. Mentors plan and discuss the trip with the apprentice before, during and after. An instructor only has contact with the young angler during the presentation.

It is this premise on which youth hunts and mentored hunting programs are based (DJ Case & Associates, 2007) (Responsive Management, 2011) (Responsive Management and Southwick Associates, 2012). This premise is the supporting rationale behind the Commission's Mentored Youth Fishing Day Program.

On March 23, 2013, the Commission piloted a Mentored Youth Trout Fishing Day on 12 waters in the regional opening day zone, covering 18 southcentral and southeast counties. This day was accomplished by the Commission's Executive Director, acting under the authority of 58 Pa. Code §65.25 (relating to temporary changes to fishing regulations). The temporary change was published at 43 Pa. B. 114 (January 5, 2013).

In order to participate, anglers 16 years of age or older (adult anglers) were required to possess a valid Pennsylvania fishing license and current trout/salmon permit and be accompanied by a youth (less than 16 years of age) who had registered with the Commission. Youth anglers must have been registered with the Commission and accompanied by an adult angler in order to participate. During the Mentored Youth Trout Fishing Day, the minimum size limit for trout was 7 inches and the creel limit was two trout per day (combined species). Other Commonwealth inland regulations applied. It was unlawful for adult anglers to fish in waters designated under the Mentored Youth Trout Fishing Day Program without a valid fishing license and trout permit and without being accompanied by a registered youth.

A total of 5,110 youth registered to participate in the Mentored Youth Trout Fishing Day pilot, accompanied by 3,846 adult mentors. A survey of mentors conducted by the Commission showed that 90% of the registered youth participated, resulting in an estimated 7,300 youth and their mentors taking part. These anglers fished an estimated 22,000 hours

and released nearly 15,000 trout while harvesting slightly more than 6,000. Public, partner and staff feedback received before, during and immediately after the pilot day was predominantly positive.

The results of the 2013 pilot program support expansion of the program to create additional opportunities for parents and mentors to take the children in their lives fishing as a way to re-activate anglers of all ages. Specific details of future mentored youth fishing opportunities will be announced by the Executive Director and published in the *Pennsylvania Bulletin*. Staff will post the program guidelines, including date(s), selected waters, species, and creel and size limits, to the Commission's website and promote it through various media outlets.

A notice of proposed rulemaking containing the proposed regulation was published at 43 Pa. B. 7099 (December 7, 2013) (Exhibit G). The Commission did not receive any public comments concerning this proposal.

On final rulemaking, staff recommend that the Commission adopt the new regulation as proposed with the following changes. In the proposed regulation, youth anglers (less than 16 years of age) are required to be "registered" with the Commission. However, staff have determined that it is preferable to issue permits to youth anglers instead of registering them through other means. Youth anglers will be able to obtain a permit from the Commission free of charge through the existing Pennsylvania Automated Licensing Service (PALS). Issuance of permits through PALS will allow the Commission to collect information regarding youth anglers. Specifically, this process will provide the Commission with more customer data for marketing purposes and allow for better assessment of lifelong license buying habits.

In addition to the free permit, the Commission will accept a voluntary youth license for youth wishing to participate in the Mentored Youth Fishing Day Program. Voluntary youth licenses will be available through PALS for \$1, and the Commission will be able to count them as licenses for the purpose of leveraging Sport Fish Restoration dollars from the U.S. Fish and Wildlife Service. Regardless of whether the youth opts for a free permit or a voluntary license, he or she will be issued a document that will resemble an adult license and will be able to be displayed for the purpose of participating in Mentored Youth Fishing Day opportunities.

Staff also recommend that on final rulemaking, the Commission include language in the regulation requiring adult anglers to obtain a trout/salmon permit when the Mentored Youth Fishing Day Program relates to trout. This requirement is consistent with other special fishing regulations in Chapter 65 dealing with trout.

Staff recommend that on final rulemaking, the Commission adopt §65.20 with the following changes:

§65.20. Mentored Youth Fishing Day Program.

(a) The Executive Director may annually designate Mentored Youth Fishing Days. As part of the designation, the Executive Director will identify the species, waters, dates, creel and minimum size limits and other applicable limitations. The designation will be effective upon publication of a notice in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in waters designated as part of the Mentored Youth Fishing Day Program except in compliance with the following requirements **when participating in the program:**

(1) Anglers shall adhere to the limitations as established by the Executive Director by notice in the *Pennsylvania Bulletin*.

(2) An angler 16 years of age or older shall be accompanied by a youth (less than 16 years of age) who **[is registered with] has obtained a mentored youth permit or a voluntary youth fishing license** from the Commission.

(3) A youth angler shall **[be registered with] obtain a mentored youth permit or a voluntary youth fishing license from** the Commission and be accompanied by an angler 16 years of age or older.

(4) A current trout/salmon permit is required for an angler 16 years of age or older when participating in a Mentored Youth Fishing Day Program that relates to trout.

(c) Notwithstanding the requirements of this section, an angler in a boat may possess fish caught in compliance with the seasons, sizes and creel limits in effect for the water from which taken, provided that the boat angler floats through the water designated as part of the Mentored Youth Fishing Day Program without stopping or engaging in the act of fishing or the boat angler takes out his boat at an access point within the water designated as part of the Mentored Youth Fishing Day Program.

In order to implement the Mentored Youth Fishing Day Program in 2014, the Executive Director exercised his authority under §65.25 (relating to temporary changes to fishing regulations). The temporary modification went into effect on January 1, 2014 and will remain in effect until the Commission, by appropriate action, amends its regulations to create a Mentored Youth Fishing Day Program. In the absence of such action, the temporary modification will expire on December 31, 2014.

Briefer:

Laurel L. Anders, Director, Bureau of Boating and Outreach

Recommendation:

Staff recommend that the Commission adopt the new regulation as set forth in the notice of proposed rulemaking with the changes described in the Commentary. If adopted, this regulation will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Squires and seconded by Commissioner Lichvar to adopt the new regulation as set forth in the notice of proposed rulemaking with the changes described in the Commentary. This regulation will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

B. Amendment to Section 69.12 (Seasons, Sizes and Creel Limits - Lake Erie, Lake Erie Tributaries and Presque Isle Bay Including Peninsula Waters).

Commentary:

At the October 2012 Commission meeting, 45 waters were moved from the Early Season Trout Stocked Waters Program to the Approved Trout Waters Open to Year-Round Fishing Program. Included in these changes were the Water Works Ponds (East Basin Pond and West Basin Pond) on Presque Isle Bay. Regulations under the Approved Trout Waters Open to Year-Round Fishing Program permit fishing for trout year-round; however, from March 1 through the opening day of trout season, only catch and release fishing is permitted for trout. The current regulations on Lake Erie tributary streams and the Water Works Ponds prohibit fishing from 12:01 a.m. on the Friday before the first Saturday after April 11 until 8:00 a.m. on the first Saturday after April 11. This was irrelevant under the Early Season Trout Stocked Waters Program since no fishing was permitted from April 1 to the opening day. However, with the change in designation to approved trout waters open to year-round fishing, fishing is permitted during the period that is currently closed to fishing immediately prior to the opening day. Therefore, the Commission proposed changes to §69.12 so that the section does not conflict with the regulations for approved trout waters open to year-round fishing.

A notice of proposed rulemaking was published at 43 Pa. B. 5467 (September 14, 2013) (Exhibit H). The Commission did not receive any public comments regarding this proposal.

Briefer:

Leroy M. Young, Jr., Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission adopt the amendments set forth in the notice of proposed rulemaking. If adopted, these amendments will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Ali to adopt the amendments set forth in the notice of proposed rulemaking. These amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

STATEMENT OF POLICY

C. Amendment to Statement of Policy at Section 57.8a (Class A Wild Trout Streams).

Commentary:

In October 2009, the Commission approved the Strategic Plan for Management of Trout Fisheries in Pennsylvania 2010-2014. The plan was developed based on input provided by a work group that consisted of Commission staff, anglers affiliated with a variety of sportsmen's organizations, and independent trout anglers that are not affiliated with an organized group. This plan has guided the direction of trout management for the agency since that time. The plan identified opportunities for improvement of trout management in Pennsylvania, issues that affected such improvements, and strategies for addressing those issues. One of the key issues addressed in the plan was the protection of Class A wild trout waters. Issue 2 of the plan stated, "*There are a number of streams that may hold Class A biomass trout populations that have not been officially designated as Class A streams by the Pennsylvania Fish and Boat Commission (PFBC). This leads to inadequate water quality protection for these waters and inconsistent application of fisheries management strategies.*" The identified strategy to address this specific issue is "*By 2014, sample waters identified by PFBC staff as likely to support a Class A wild trout biomass and designate appropriately.*" These evaluations have been ongoing. It should be noted that this issue is separate from the identification of unassessed Class A waters, which the Commission has been addressing since adoption of the plan. The waters to which Issue 2 of the plan applied were waters for which historical data was present but which had never been officially designated as Class A.

A work group, comprised of several Commissioners and Commission staff, was formed to gather background information related to the Class A issue. Using this information, staff have identified several changes to the current policy that should be made so that Class A waters can be properly identified and protected. One proposed change to the policy addresses the criteria that must be met in order to designate a stream section with a mixed wild brown trout/rainbow trout or wild brook trout/rainbow trout population as a Class A water. Such populations are not addressed in the current policy. Another proposed change addresses the criteria for removing a water from the Class A list. With the proposed change, removal of a water from Class A status will be limited to those waters in which some environmental or human induced physical change has occurred that is highly unlikely to be reversible and thus renders the stream incapable of sustaining a Class A trout population.

A notice containing the proposed changes to the statement of policy was published at 43 Pa. B. 5469 (September 14, 2013) (Exhibit I). The Commission did not receive any public comments concerning these proposed changes to the statement of policy.

Briefer:

Leroy M. Young, Jr., Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission adopt the proposed changes to the statement of policy as set forth in the notice. If adopted, this amended statement of policy will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Bachman and seconded by Commissioner Worobec to adopt the proposed changes to the statement of policy as set forth in the notice. This amended statement of policy will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

HABITAT AND ENVIRONMENTAL

A. Fish Passage and Habitat Restoration Grant to American Rivers for Post Dam Removal Habitat Restoration Work on Bigby Run, Somerset County.

Commentary:

At its October 2004 meeting, the Commission established the statewide Consultation and Grant Program for Fish Passage and Habitat Restoration. The purpose of this grant program is to provide a mechanism for the Commission to pass federal, state and other funding as it becomes available to dam owners throughout Pennsylvania who agree to provide fish passage and habitat restoration at their dams. The Commission authorized the Executive Director to approve individual pass-through grants of up to and including \$100,000 to each dam owner and their designees for dam removal, fish passage and habitat restoration projects statewide. For individual pass-through grants in excess of \$100,000, staff will seek separate Commission approval.

At its January 2008 meeting, the Commission approved a grant of \$270,000 to remove Bigby Dam owned by Garrett Borough. This funding was part of \$300,000 provided to the Commission from the Pennsylvania Department of Transportation (DOT) to mitigate the impacts associated with the construction of Route 219. Following the removal of Bigby Dam, the stream channel continued to adjust through the former impoundment and the site is in need of additional habitat restoration work to stabilize the channel and streambanks and satisfy DOT's mitigation expectations. Staff worked with the Borough and DOT and agreed that the best path forward is to work with American Rivers to complete the additional habitat restoration work.

The Commission has obtained an additional \$113,647 from DOT to complete the additional habitat restoration work at Bigby Run. A total of \$37,750 is remaining from the original funding allocation. Staff propose to provide American Rivers a grant of \$151,397 to serve as project manager for the additional habitat restoration work at the site. American Rivers will oversee the design, permitting and construction of the stream restoration work, and the Division of Habitat Management will provide technical assistance and oversight and administer the contract on behalf of the Commission. All funding for this project has been provided by DOT, and no additional financial support is needed from the Commission.

Briefer:

Leroy M. Young, Jr., Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission approve a grant of up to \$151,397 to American Rivers for the stream restoration work necessary to meet the Pennsylvania Department of Transportation's mitigation requirements as more fully described in the Commentary.

Action:

A motion was made by Commissioner Lichvar and seconded by Commissioner Ali to approve a grant of up to \$151,397 to American Rivers for the stream restoration work necessary to meet the Pennsylvania Department of Transportation's mitigation requirements as more fully described in the Commentary. Motion carried.

LAW ENFORCEMENT FINAL RULEMAKING

A. Amendment to Section 63.6 (Authorized Devices for Game Fish, Bait Fish and Fish Bait).

Commentary:

Section 63.6 of the Commission's regulations limits the number of hooks per line to three (a single hook, as defined in Pennsylvania, may contain up to three points). Several individuals and a representative from a tournament angling organization have requested that the Commission accommodate use of the "Alabama rig." The "Alabama rig" is an umbrella type rig that contains five lures on short wire lines that merge to one point for attachment to a fishing line. The Alabama rig has been observed to be used in Pennsylvania by Fisheries Management staff as fished with three hooked lures and two "teaser" lures not containing hooks. After both the Bureau of Fisheries and Law Enforcement explored the issue, no sound biological or enforcement reason was found not to change the regulation to allow for such tackle.

Although initial interest to change the regulation came from a black bass organization, any change to the regulation would affect other species as well. Striped bass anglers also use this type of device.

With respect to black bass, it appears that use of the rig in other states has been directed to a rather small component of black bass populations, i.e., bass that occupy habitats that were lightly exploited or that were previously not vulnerable to capture using conventional gear types. Where such habitats exist and are occupied by black bass in Pennsylvania, we might expect an increase in catch. The fraction of catch that is harvested is typically low for black bass, 7% as measured in the 2007 Susquehanna River Creel survey. Likewise, the percentage of released bass that perish is typically low (10-12%) as measured in Pennsylvania reservoirs and elsewhere using conventional tackle. Staff presume that catch and release loss associated with the Alabama Rig would likewise be low.

The Bureau of Law Enforcement looked at all the surrounding states' regulations and found that there is no real consensus in terms of a limit on hooks. Several states allow more than three hooks or have no limit on hooks. New Jersey allows up to nine hooks or three treble hooks per line while New York allows five baits/lures. Both Virginia and West Virginia have no limit on rods or hooks except for trout fishing. Ohio is the only state that has a regulation which closely mirrors Pennsylvania's with a two rod/three hook maximum. The Commission therefore proposed that §63.6 be amended to provide that there will be no restriction on the number of hooks used for fishing for game fish or baitfish.

A notice of proposed rulemaking containing the amendments was published at 43 Pa. B. 5466 (September 14, 2013) (Exhibit J). The Commission received a total of five comments. Prior to the official public comment period, the Commission received three comments concerning the proposal, two of which support it and one of which opposes it.

The Commission received one comment opposing it during the official public comment period. After the public comment period, the Commission received a comment from the Ohio Department of Natural Resources, Division of Wildlife, expressing concerns that implementing the new rule on the Pymatuning Reservoir where Pennsylvania and Ohio exercise concurrent jurisdiction will cause confusion among anglers fishing in the lake. Copies of all public comments were provided to the Commissioners.

After the Commission approved the publication of a notice of proposed rulemaking containing the proposed amendments, staff discovered that there is a reference in §63.10 to the number of hooks that are permitted to be attached to each line while fishing. That number is limited to three. In order to be consistent with the previously proposed changes to §63.6, staff recommend that the Commission adopt a similar amendment to §63.10. In addition, as a result of concerns raised by the Ohio Department of Natural Resources, staff recommend that the Commission amend §§63.6 and 63.10 to remove the restriction on the number of hooks except when fishing in the Pymatuning Reservoir.

Staff recommend that on final rulemaking, the Commission adopt the following amendments:

§63.6. Authorized devices for game fish, baitfish and fishbait.

(a) It is unlawful to fish for game fish with more than three lines of any description, whether fished by rod or by hand, at one time except while ice fishing in accordance with §63.10 (relating to ice fishing). **[No more than three hooks shall be attached to line used in fishing for game fish.] There is no restriction on the number of hooks used for fishing for game fish except when fishing in the Pymatuning Reservoir where no more than three hooks shall be attached to each line used in fishing.** Rods, lines and hooks shall be under the immediate control of the person using them. A fishing device shall be deemed to be under the immediate control of the person using it if, when the terminal device (hook, bait or lure) is taken by a fish, the person using the device has direct control over it and it is not connected at that point to a casting or depth placement aid such as a casting boat or downrigger. Casting or depth placement aids such as downriggers or small remote controlled boats are not prohibited by this chapter.

(b) It is unlawful to fish for baitfish with more than three lines of any description, whether fished by rod or by hand, at one time **[with not more than three hooks attached to each line]**; a dip-net or minnow seine not over 4 feet square or 4 feet in diameter, and a minnow trap, with not more than two openings, which may not exceed 1 inch in diameter. **There is no restriction on the number of hooks used for fishing for baitfish except when fishing in the Pymatuning Reservoir where no more than three hooks shall be attached to each line used in fishing.** Rods, lines, hooks, nets and seines used in fishing for fishbait and baitfish shall be under the immediate control of the person using the same. For the purposes of this subpart, gizzard shad (*Dorosoma cepedianum*) 8 inches or less in length are considered baitfish.

* * *

§63.10. Ice fishing.

* * *

(b) It is unlawful while ice fishing to use more than five fishing devices, which may consist of rods, hand lines, tip ups or any combination thereof. Each device shall contain a single fishing line [**with no more than three hooks attached to each line**]. **There is no restriction on the number of hooks that may be used for ice fishing except when fishing in the Pymatuning Reservoir where no more than three hooks shall be attached to each line used in fishing.**

Briefer:

Colonel Corey L. Britcher, Director, Bureau of Law Enforcement

Recommendation:

Staff recommend that the Commission adopt the proposed amendments as set forth in the notice of proposed rulemaking with the changes described in the Commentary. If adopted, the amendments will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Lichvar and seconded by Commissioner Sabatose to adopt the proposed amendments as set forth in the notice of proposed rulemaking with the changes described in the Commentary. The amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

PROPOSED RULEMAKING

B. Amendment to Section 63.2 (Display of Fishing License and Verification of License Purchase).

Commentary:

In accordance with 58 Pa. Code §63.2(b), anglers required under 30 Pa. C.S. Chapter 27 (relating to fishing licenses) to purchase a license to fish in the waters of this Commonwealth or boundary waters must display the actual fishing license certificate on a hat or outer garment while fishing. Starting some time in February, 2014, the Commission will make license buttons available for sale. To allow the display of license buttons as an alternative to the current display requirement, §63.2 must be amended.

Staff therefore propose the following changes to §63.2:

§63.2. Display of fishing license and verification of license purchase.

* * *

(b) *Display on an outer garment.* It is unlawful for a person required by Chapter 27 of the code (relating to fishing licenses) to purchase a fishing license to fish in the waters of this Commonwealth or in boundary waters unless the person displays the license certificate, **a license button or other device approved by the Executive Director** on a hat or outer garment while fishing. A warning will be issued for a first violation of this section if the person has a valid fishing license in his possession and about his person and shows it upon request. An institutional license issued under section 2708 of the code (relating to institutional licenses) may be displayed or maintained by the person fishing or by the person attending the person who is fishing. **If a license button or other device is displayed instead of the license certificate, the person shall carry the license certificate about his person.**

* * *

In order to allow the display of license buttons as an alternative to the current display requirement, the Executive Director exercised his authority under §65.25 (relating to temporary changes to fishing regulations). The temporary modification went into effect on January 1, 2014 and will remain in effect until the Commission, by appropriate action, amends §63.2. In the absence of such action, the temporary modification will expire on December 31, 2014.

Briefer:

Colonel Corey Britcher, Director, Bureau of Law Enforcement

Recommendation:

Staff recommend that the Commission approve the publication of a notice of proposed rulemaking with the changes described in the Commentary. If adopted on final rulemaking, these changes will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Squires to approve the publication of a notice of proposed rulemaking with the changes described in the Commentary. If adopted on final rulemaking, these changes will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

Other New Business

Bernie Matscavage announced that what is old is new again. The Commission is anxious to kick-off a pilot program to reintroduce the fishing license button in March 2014. A traditional paper license is required before a button can be purchased by anglers, and the buttons are voluntary. The Commission anticipates that many anglers will find appealing the nostalgic look of the button and the ability to use the button to fulfill the license display requirement while fishing. The availability of buttons during this pilot year is limited to the PALS Outdoor Shop and Commission offices to keep the button's price affordable. Buttons are \$5 each.

Time and Place of May 2014 Commission Meeting

The next meeting will be held on May 5-6, 2014 in Hawley.

Adjournment

At approximately 11:10 a.m., Commission President Elliott announced, "With there being no further business to come before the Board, we stand adjourned."

Guests
**PENNSYLVANIA FISH AND BOAT COMMISSION
COMMISSION MEETING
January 23, 2014
HARRISBURG, PENNSYLVANIA**

NAME

ADDRESS
& PHONE #

AFFILIATION

I WISH TO PROVIDE
PUBLIC COMMENT
(CHECK HERE!)

None



SUNSHINE ACT MEETING NOTICES

Thursday, January 9, 2014

If you need an accommodation due to a disability,
please contact the ADA contact name listed below.

PUBLIC NOTICES

RESCHEDULED: Dept. of Public Welfare, Office of Medical Assistance Programs, Managed Care Delivery System Subcommittee Meeting: January 14, 2014, 1:00 PM. DGS Complex, Clothes Tree Conf. Ctr., HBG. Time: 1-3 PM. This is a rescheduling of the 1/9/14 meeting.

Contact Name: Paula Matters 772-6196

CANCELLED: State Board of Optometry Meeting: January 16, 2014, 9:00 AM. 2601 N. 3rd St., HBG

Contact Name: Nicole Thurstin 787-6604

PA Fish & Boat Commission Meetings: January 22, 2014, 8:00 AM. 1601 Elmerton Ave., HBG. Add'l meeting scheduled: 1/23/14 same above time and location.

Contact Name: Teresa Erdman 705-7801

Dept. of Conservation and Natural Resources, Conservation and Natural Resources Advisory Council Meeting: January 22, 2014, 10:00 AM. Rachel Carson State Office Bldg., 1st Fl., Rm. 105, 400 Market St., HBG

Contact Name: Lauren Adair 787-9293

PA Advisory Council on Drug & Alcohol Abuse, 2014 Public Meetings: January 22, 2014, 1:00 PM. Dept. of Drug & Alcohol, Programs Off., 02 Kline Plaza, HBG. Time: 1-3:30 PM. Add'l 2014 meetings scheduled: 03/29/14, 5/28/14, 7/23/14, 9/17/14, and 11/19/14 same above time and location.

Contact Name: Roseann Deutsch 214-1937

PA State Harness Racing Commission Meeting: January 23, 2014, 11:00 AM. Hershey Lodge and Convention Ctr.- Cocoa Rm. 2 & 3, 325 University Dr., Hershey Contact Name: Stephanie Pavilk 787-5196

Farm Show Commission Meeting: January 24, 2014, 10:00 AM. PA Farm Show Complex & Expo Ctr.-Board Rm., 2300 N. Cameron St., HBG. Purpose: Brief recap of the 2014 PA Farm Show and any other business relating to the PA Farm Show Complex & Expo Center.

Contact Name: Deborah Trump 724-6942

PA Game Commission, Board of Commissioners January 2014 Meetings: January 26, 2014, 1:00 PM. PA Game Commission Bldg., 2001 Elmerton Ave., HBG. Add'l January meetings scheduled: 1/27/14 and 1/28/14 at 8:30 AM at same above location.

Contact Name: Joan French 787-7836

Dept. of Education, Teacher Tenure Appeal No. 05-13: January 27, 2014, 2:00 PM. Office of Chief Counsel,

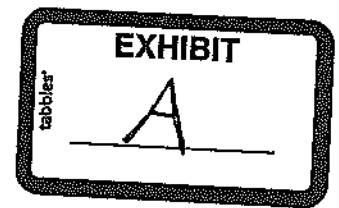
**COMMONWEALTH OF PENNSYLVANIA
Fish and Boat Commission
Executive Office**

DATE: January 22, 2014
SUBJECT: Possible Conflict of Interest
TO: PFBC Commissioners
FROM: Bill Worobec

Please be advised that I must abstain from discussion and voting relating to oil and gas agreements and water access issues. The reasons for this decision are as follows:

1. Concerns about business relationships between my employer and Marcellus Shale participants.
2. My spouse and I participate in oil and gas lease agreements.
3. I am a party to a pipeline lease agreement.
4. My daughter is employed by one of the companies that participate in the Marcellus Shale.

This memorandum has been delivered to Laurie Shepler, Pennsylvania Fish and Boat Commission Counsel, for appropriate filing relative to the Public Official and Employee Ethics Act.



October - December 2013 Quarterly Report

Strategic Plan Implementation

The following updates include the major activities or accomplishments during the quarter that further the July 2010 – June 2015 PFBC Strategic Plan. The bulleted list does not include every detail about what is being done on a particular goal, just the highlights that help to track implementation.

If there is nothing listed for a particular goal, either there was nothing major to report during the quarter, or work has yet to commence on the goal.

Overall, please also note that it is intended to be a tracking tool for the strategic plan rather than an auditing tool.

Issue 1: Escalating costs of traditional services and increasing demands for activities require the development of alternative funding sources and methods.

Strategy 1: Develop alternative funding sources and methods to offset escalating costs of traditional services and better accommodate increasing demands for activities.

Goal 1: Actively pursue innovative, as well as traditional, funding sources, compensation for services provided to all Pennsylvanians, and funding for the completion of priority infrastructure projects.

- DHM continues to seek and secure augmenting revenue as reimbursement for our time connected to fish habitat improvement projects. Approximately \$65,000 was reimbursed for staff time in 2013. We estimate that at least \$65,000 will be provided by partners in 2014 for reimbursement of staff time and expenses.
- A. Advocate for passage by July 2011 of alternative, secure, long-term funding (e.g., special fees or permits, General Fund, sales tax revenues, Renew Growing Greener) to compensate the Commission for services provided to all Pennsylvanians and the Commonwealth in general for lost natural resource values.
- After months as the Commission's top legislative funding priority, the General Assembly passed a comprehensive transportation funding bill and the Governor signed Act 89 of 2013. Act 89 directs the portion of the Oil Company Franchise Tax attributable to motorboat fuel to the Commission.
- B. Advocate for a Marcellus Shale severance tax that includes dedicated conservation funding, including support for functions performed by the Commission, until such a tax is enacted.
- C. Advocate for passage by December 2014 of sales and marketing flexibility, including, but not limited to, multi-year licenses and group or family licenses.

- D. Deleted via Amendment 1
- E. Advocate for and seek capital funding to make Commission-owned high-hazard dams safe, complete state fish hatchery upgrades, and other priorities identified in the Commission's Infrastructure Plan.
- Secured a commitment from the Governor's Budget Office for the release of capital budget funding for the repair of Colyer Lake dam.
- F. Advocate for passage of existing and new federal legislation to protect and expand funds available to the Commission to support our mission.

Issue 2: Current and increasing threats to our aquatic resources demand the Commission provide better resource management and protection.

Strategy 2: Provide better resource management and protection to reduce the impacts of current and increasing threats to our aquatic resources.

Goal 2: Improve protection, conservation and enhancement of aquatic resources and habitats.

- A. By July 2010, continue implementation of the *Strategic Plan for Management of Trout Fisheries in Pennsylvania*.
- DFM staff fin clipped and assisted in stocking fingerling trout in Caldwell Creek, Warren County and Little Sandy Creek, Venango County. Staff also fin clipped fingerling trout scheduled for stocking in Green Spring Creek, Cumberland County as part of the fingerling trout evaluation program.
 - DFM staff completed fingerling trout gill netting at Quaker Lake, Susquehanna County.
 - Prepared agenda items to address proposed revision of Class A criteria
 - Completed draft criteria for application of special regulations for trout fisheries
 - Completed 2013 upper Delaware River temperature study data collection. Results show river temperature performance is similar for upper 9 miles of Delaware River. Report to be completed first quarter 2014.
 - Participated in monthly Decree Party Work Group Meetings that address the next Delaware River/NY City release program.
 - Administered 7 grants under the Sinnemahoning Watershed Restoration Grant Program (SWRGP). Convened a meeting of some of the PFBC Internal Committee members with staff of the Western PA Conservancy (WPC) to discuss the implementation progress made and draft work products produced for their grant to develop a geo-database of stream sections assessed within the Sinnemahoning-Portage Creek watershed that need some type of fish habitat restoration work. This

tool will help the PFBC and project partners prioritize stream restoration work locations and use of program funds.

- Developed a press release and request for proposals (RFP) for the next round of Sinnemahoning Grants.
- Continued work on National Fish & Wildlife Foundation (NFWF) Grant implementation planning for fish habitat improvements to Spring Creek, Centre County, including on properties owned by PFBC. Work will include restoration of many of the existing instream fish habitat structures at Fisherman's Paradise, and riparian buffer plantings. Riparian plantings of over 300 trees and shrubs were completed along Spring Creek in Milesburg with partners from Spring Creek TU Chapter and ClearWater Conservancy.
- Coordinated with the Western PA Conservancy, Forbes Trail TU, and Loyalhanna Creek Watershed Association to plan future riparian buffer tree and shrub plantings in the Loyalhanna Creek watershed in Westmoreland County
- Completed habitat improvement projects on the following wild trout streams: Hypocrite Ck, Westmoreland Co; Mill Ck, Westmoreland Co; Lt Bear Ck, Lycoming Co; Unt to Yellow Breeches Ck, Cumberland Co; Havice Ck, Mifflin Co; Buck Rn, Franklin Co; Delaware Ck, Juniata Co; L Juniata River, Blair Co; Standing Stone Ck, Huntingdon Co; Dunbar Ck, Fayette Co; Morrison Run, Warren Co; Asaph Rn, Tioga Co; Babbs Ck, Tioga Co
- Four dams were removed on wild trout waters: Big Run Park Dam (Big Run), Unnamed Dam (Monocacy Ck), Robin Hood Dam (Little Lehigh Creek), Trout Hatchery Dam (Little Lehigh Creek).
- The following dam removal projects are in various stages of implementation on wild trout streams: Taylor Run, Tioga Co.; Driftwood Br. Sinnemahoning Creek, Cameron Co.; Cacoosing Creek, Berks Co.; UNT to Frankstown Br. Juniata River, Blair Co
- Met with multiple government agencies and NGO's to establish a statewide habitat improvement committee to coordinate communication, planning, project prioritization, on the ground work, and funding of habitat projects.

B. By December 2010, begin implementation of large river management plans for the Delaware, Susquehanna, and Three Rivers systems.

- DFM staff conducted Young of Year American Shad seining on the Delaware River.
- DFM staff completed statewide adult smallmouth bass population index sampling on Pennsylvania's major river systems.
- DFM staff attended a joint PA and NY fisheries meeting in Hancock, NY designed to familiarize each agency with the work being conducted on the Delaware River, identify data gaps, and look for areas where the two agencies may be able to cooperate to improve operational efficiencies and reduce any redundancy in data collection.
- DFM staff participated in a conference call with biologists from the Kentucky Department of Fish and Wildlife Resources to solicit input regarding techniques for conducting surveillance surveys for Asian carp on the Ohio River. Surveillance efforts will begin in Spring 2014.

- DFM staff provided presentations on the Susquehanna River Smallmouth Bass issue to the North central Pennsylvania Conservancy meeting, the SRBC Water Science Forum, and the Pennsylvania Dirt and Gravel Roads Program annual meeting.
 - Met with DEP policy level staff to discuss future study needs, and action items to address fish disease and water quality concerns on the Susquehanna River. Interagency white paper is in preparation to document these planning efforts.
- C. By December 2010, begin implementation of statewide action plans for the following species: Eastern pearlshell mussel, bog turtle, Eastern spadefoot toad, Eastern massasauga rattlesnake, and timber rattlesnake.
- Eastern Pearlshell-SWG inventory project initiated to assess historic distribution and gap areas in Delaware.
 - Bog Turtle-Continued effort to gather data on individual turtles marked in PA, database the information, and start to manage surveyors in distributing their time and effort among occupied sites for long term monitoring. The bog turtle (Section 6) monitoring grant is being amended to include the health assessment and another year of sampling. This amendment was approved by USFWS. Data is being compiled and summarized for bog turtle trapping surveys at the sites of the first year of the PDIS project, as well as across all 5 years of trapping for the final report. Other NFWF funded bog turtle habitat restoration project activities: continue to engage bog turtle landowners for securing site access for project activities and conservation easement programs; conducted habitat assessments and presence/absence surveys, wrote habitat management plans for NRCS WRP bog turtle initiative, and aided partners (USFWS and USDA); continue conducting aerial photograph analysis resulting in potential sites identified remotely. Section 6 funded project to assess historic and gap areas across southeast PA still under contracting phase.
 - Eastern Spadefoot -Completed status assessment, documentation process and proposed status change from Endangered to Threatened in previous reporting period. Final rulemaking approved; official downgrade of Threatened status updated in Chapter 75 in this reporting period.
 - Eastern Massasauga-Implementation of restoration plan was initiated in November 2012. Significant woody vegetation removal activities began in late December 2012, with the bulk of work done in January and February 2013. This first phase restoration will result in the creation of approximately 30 acres of suitable upland habitat for the Eastern Massasauga.
 - Timber Rattlesnake-Continue to cooperate with Penn State monitoring study on State Forests concerning Marcellus/Utica shale development activity impact. Assisted with the development and implementation of habitat maintenance and/or habitat improvement programs for specific management units, targeting existing gestation sites. Implementation has begun and will broaden to include more sites in various state forests and state game lands.
- D. By July 2011 and annually thereafter, facilitate or complete population inventories and home-range assessments for 10% of the state-listed endangered, threatened or candidate species identified in the State Wildlife Action Plan.

- State Wildlife Grant projects herpetofauna data compilation (PA Amphibian and Reptile Survey-PARS) project is ongoing. Data records continue to be gathered from academic and museum collections. Approximately 160,000 records have been collected from various institutions, including PFBC files. The pilot interactive website for volunteers and project participants was launched on June 1. To date, over 650 people have contributed records and over 6,000 records have been submitted since the project has started.
- The Eastern Massasauga habitat restoration and monitoring project is ongoing. Winter vegetation management occurred on a 50 acre tract in Venango County. Snakes have been outfitted with radio transmitters and are being tracked as to habitat use. We also recently learned that over 400 acres of upland foraging habitat has been restored on State Game Lands in NW PA
- Ongoing work with timber rattlesnake assessment project – focus has shifted to monitoring study sites, prioritizing sites for habitat management, assessing sites in gap areas.
- The SWG grant to compile the PA fish data, quality assurance on the data, and conduct a status assessment on the darters is ongoing. The fish data contained at PFBC in electronic format was compiled from PNDI, PFBC ARDB, and PFBC Scientific Collectors Databases (along with historic museum and academic databases). This time consuming and tedious process has involved acquiring known data sources and reformatting them into a standardized table for review. Standardized fields have been developed to facilitate review and to store information about the review for future data use. To date, upwards of 100,000 records have been entered from Scientific Collectors, 275,000 from PFBC records, and 700 from PNDI records. Duplicate records have been partially addressed, but will become more of an issue once the project moves from the data compilation stage to the record review.
- A SWG grant to focus on the status assessment on the endangered Eastern Pearlshell mussel, as well as a Section 6 funded project to study the Dwarf Wedgemussel in the Delaware River tributaries is underway.
- Continued to work on numerous status assessments: Ohio Lamprey, Bowfin, Timber Rattlesnake, Redbelly turtle, Blanding's Turtle, Blackchin Shiner, Pugnose Minnow, and Horneyhead Chub.
- Activities to address the congressionally required comprehensive revision of the Pennsylvania State Wildlife Action Plan (SWAP) included meetings of the joint PFBC-PGC Steering Committee and the Advisory Committee, composed of partner conservation agencies and organizations. These committees were established to guide and assist with the revision process. The revision process is being facilitated by the PFBC Conservation Coordinator and the PGC Conservation Planning Coordinator. The comprehensive revision of the SWAP is due September 30, 2015

E. By December 2012, develop a PFBC sampling protocol manual to ensure consistent data collection techniques for waterways.

- By September 2010, complete documentation of PFBC-approved sampling protocols for wadeable streams.

- By July 2012, complete documentation of PFBC-approved sampling protocols for large rivers.
 - Document is under review
 - By December 2012, complete documentation of PFBC-approved sampling protocols for lakes.
 - DFM staff provided edits to the first of six chapters of the lakes sampling protocol document for Division Chief review
- F. By January 2013, complete the evaluation of the inclusion of additional water quality protection criteria for special protection classes of Warm Water Fishes in 25 Pa. Code Chapter 93 in collaboration with the Pennsylvania Department of Environmental Protection.
- Completed a summary paper which describes the criteria initiatives that the PFBC/DEP workgroup discussed. The results from the workgroup will be presented to the PFBC executive staff meeting in January.
- G. By January 2014, sample at least 2,500 prioritized, un-inventoried streams with the potential to support wild trout identified by PFBC staff as most at risk from the effects of human activities and pursue partnerships and funding to augment Commission sampling efforts.
- DFM staff conducted unassessed water surveys on 21 streams throughout the Commonwealth.
 - DFM staff conducted three follow-up surveys of reported high biomass waters from cooperators to determine if wild trout biomass met the Class A criteria
- H. By July 2014, evaluate and improve gamefish management programs for muskellunge, walleye, channel catfish and striped bass/hybrid bass.
- DFM staff evaluated young of year, yearling, or adult walleye through night boat electrofishing or gill netting on the Allegheny River, Juniata River, Susquehanna River, Delaware River, and Beltzville Lake. These surveys were conducted to either evaluate the effectiveness of fry stockings or the level of natural recruitment following the cessation of stocking.
 - DFM staff completed young of year Muskellunge sampling and young of year muskellunge habitat sampling at Frances Slocum Lake and Lackawanna Lake.
 - DFM staff completed adult Muskellunge sampling at Beltzville Lake.
 - DFM staff completed a fall hoop net survey and experimental gill net survey targeting channel catfish at Beltzville Lake.
- I. By June 2015, minimize the impacts of aquatic invasive species and disease on aquatic resources.
- By July 2010, begin implementation of an education and outreach program targeted at anglers and boaters as identified in the Pennsylvania Aquatic Invasive Species

Management Plan and in cooperation with partners on the Governor's Invasive Species Council of Pennsylvania.

- Represented PFBC at quarterly PISC meeting.
 - Reviewed several applications to PA Dept. of Ag. regarding importation of non-native species.
 - Helped facilitate data transfer to populate iMAP statewide AIS online database.
 - Investigated New Zealand Mudsail issues in Spring Creek, Centre County.
 - PFBC staff, along with conservation partners, completed and submitted the final performance and financial reports for the first Great Lakes Restoration Initiative (GLRI) FY10 Grant. For PFBC, this grant provided crucial support to address the Commission's aquatic invasive species (AIS) biosecurity protocols by allowing the purchase of much-needed disinfecting supplies, duplicate field gear, and high-pressure washers to help prevent the spread of AIS.
 - The Commission continues to administer two GLRI Grants (FY11 and FY12). These grant funds, as with the GLRI FY10 grant, provided by the U.S. Fish and Wildlife Service and U.S. EPA, are being used to address diverse issues (e.g., monitoring, education and outreach, coordination, AIS tracking) associated with aquatic invasive species in and around the Great Lakes. For this quarterly report, PFBC staff updated information into the Great Lakes Accountability System (GLAS), submitted the requisite semi-annual reports, and are providing administrative oversight of these grants
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- By July 2010, begin implementation of action plans, as necessary, for Didymo, Asian carp, water chestnut and golden algae as identified in the Pennsylvania Aquatic Invasive Species Management Plan and in cooperation with partners on the Governor's Invasive Species Council of Pennsylvania.
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- By December 2010, begin implementation of an action plan, as necessary, for viral hemorrhagic septicemia as identified in the Pennsylvania Aquatic Invasive Species Management Plan and in cooperation with partners on the Governor's Invasive Species Council of Pennsylvania.
-
- By April 2013, amend the Commission's regulations concerning introduction, propagation and transportation of fish in Pennsylvania's waters to minimize the spread of aquatic invasive species and disease.
 - Meetings continued to revise Chapters 71 and 73 of the Pennsylvania Fish and Boat Code pertaining to propagation and transportation of fish in Pennsylvania.
 - Investigated multiple reports from public regarding possible AIS occurrences.

J. By June 2015, improve fish passage efforts on the Susquehanna and Lehigh Rivers and small streams.

- By September 2014, collaborate with other natural resource agencies in the FERC relicensing of the four Lower Susquehanna River hydroelectric projects to ensure incorporation of provisions for timely and effective upstream and downstream fish passage consistent with American shad, river herring and American eel restoration goals and resident fish needs.
 - York Haven settlement negotiations complete; Offer of Settlement signature process ongoing. PADEP proposed Water Quality Certification for Muddy Run Pump Storage submitted for public review process (ongoing). Conowingo still in negotiations with resource agencies. FERC issued updated schedule for filing recommendations, preliminary terms and conditions, and preliminary fishway prescriptions for York Haven, Muddy Run and Conowingo to 1/31/14.
- By June 2015, investigate the feasibility of fish passage improvements on the Lehigh River in collaboration with state and local partners.
 - A final report was completed by KCI Technologies for the Lehigh River Fish Passage Feasibility Study. PFBC developed a response to public comments to be discussed with project partners and released to the public.
- By June 2015, facilitate or complete at least 40 small dam removals in collaboration with state and local partners.
 - Four dams have been removed on wild trout waters: Big Run Park Dam, Unnamed Dam (Monocacy Ck), Robin Hood Dam (Little Lehigh Creek), Trout Hatchery Dam (Little Lehigh Creek).
 - Five dams have been removed on non-wild trout waters: Trough Creek Dam (Great Trough Creek), Jordan Park Dam (Jordan Creek), MacArthur Road Dam (Jordan Creek), Route 22 Dam (Jordan Creek), Helfrich Springs Dam (Jordan Creek).
 - Since 2010, at least 52 dam removals have taken place in Pennsylvania with the removal of the 9 additional dams reported in this quarter.
 - Collaborated with partners to facilitate the advancement of the following dam removal projects: Taylor Run (WT), Tioga Co.; Wetmore Run (WT, 2 dams), Potter Co.; Driftwood Br. Sinnemahoning Creek (WT/ST), Cameron Co.; Skinner Creek (WT/ST), McKean Co.; Cacoosing Creek (WT), Berks Co.; UNT to Frankstown Br. Juniata River (WT), Blair Co.; Jordan Creek (ST), Northampton Co.; Little Lehigh Creek (WT/ST), Lehigh Co.; Great Trough Creek (ST), Huntingdon Co.; Conewango Creek, Warren Co.; E Br Brandywine Creek (ST), Chester Co.; Little Cove Creek (ST), Franklin Co.; Pennypack Ck, Philadelphia Co.; Conococheague Creek, Franklin Co.
 - Collaborated with partners to coordinate site restoration and stabilization work following dam removals on the following waters: Turtle Creek (ST), Westmoreland County (Complete); East Br. Clarion River (WT/ST), Elk Co.

(Complete); Darby Creek (ST, 3 dams), Delaware Co. (Complete); Stony Creek (ST), Montgomery Co. (Complete); Bigby Run, Somerset Co.; Conococheague Creek (ST), Franklin Co. (Complete).

Issue 3: The Commission needs to better understand recent generations' disconnectedness from the Commonwealth's aquatic resources and respond to anglers' and boaters' desires for excellent recreational fishing and boating opportunities.

Strategy 3: Increase the Commission's knowledge and understanding of its users to enhance recreational fishing and safe boating opportunities.

Goal 3: Improve the Commission's knowledge of its users in order to better direct Commission programs and services.

- A. By March 2013, conduct the first bi-annual, statewide survey of active and lapsed anglers and boaters to supplement the Commission's use of the 5-year *National Survey of Fishing, Hunting, and Wildlife-Associated Recreation*.
- B. By June 2015, increase youth and family participation in fishing, boating and aquatic resource education programs.
- By July 2010, continue collecting participant data for analysis of the behaviors, motivations and demographics of the users of the Commission's educational programs.
 - Responsive Management (RM) continued to survey participants in the 2013 PFBC Family Fishing Programs. This is part of RM's ongoing national study on the effectiveness of recruitment and retention programs. A sample of adult and youth participants over the age of 10 years is surveyed before the program and three months after.
 - To date, RM has completed a total of 154 pre-program and 26 post-program interviews as part of the 2-year study. Post-program interviews will continue into the first quarter of 2014.
 - By July 2013, utilize information captured from participants in the Commission's educational programs to direct future fishing and safe boating programs.
 - The analysis of data from the 2013 Mentored Youth Trout Day was used to formulate and finalize details for the 2014 statewide pilot expansion of the Mentored Youth Fishing Program.
 - Data collected from 586 Family Fishing Program participants 16 years of age and older was added to the participant registration database. This database contains nearly 1,300 participant records. This data was then prepared for further analysis.
 - The PALS customer database will be searched for customer identification (CID) numbers for those providing date of birth. Of those with CID numbers,

license purchasing history will be determined. This analysis is scheduled for first quarter 2014.

- C. By July 2010, continue efforts to amend the Commission's boating safety regulations and/or education requirements and, as needed, pursue corresponding legislative changes to further reduce the number of recreational boating accidents and fatalities.
 - Conducted planning and preparation for a Boating Advisory Board meeting set for first quarter 2014.

Issue 4: The public continues to identify a need for access to the Commonwealth's aquatic resources.

Strategy 4: Increase public access to the Commonwealth's aquatic resources.

Goal 4: Retain and add new access to fishing and boating opportunities.

- A. By June 2015, review existing and create new boating and fishing access programs to reflect the priorities of the Commission and its customers.
- B. By June 2015, complete two watershed access plans per year delineated in the PFBC Access Strategy priority list.
- C. By December 2014, improve public access to at least five lakes, ten Class A streams, ten Class B, C and D streams, and ten stocked streams with no wild trout reproduction.
 - In October and November 2013, shoreline angler access was improved at Glendale Lake, Marsh Creek Lake, Lake Arthur and Raystown Lake with the addition of shoreline habitat devices
 - Met with Rep Christiana, Washington County Commissioners, and anglers to address concerns with the condition of access at the newly refurbished Dutch Fork Lake. Access improvements are planned.

Issue 5: The Commission's existing data are not well-integrated and therefore not optimally used to proactively manage the aquatic resources under our jurisdiction.

Strategy 5: Improve the Commission's utilization and integration of existing data to proactively manage the aquatic resources under its jurisdiction.

Goal 5: Optimize agency operations through integrated information systems management.

- A. By December 2010, ensure integrity of agency data through the use of GIS.

- B. By December 31, 2013, complete migration of the IT supported access applications used by the Bureau of Fisheries to a new modernized platform.
 - Fisheries staff attended training in Harrisburg on the use of the new Agency Resource Database.

- C. By January 2012, begin integration of priority agency information systems, including the current GIS environment, as identified in the *Modernization Plan for IT Infrastructure and Software Resources*.
 - i. *ARDB, Trout, Real Estate, Pathology, Warm Cool, COOP, AME/Eel, Habitat-Fish Passage, Special Activities Permit Applications:*
 - RFP Production
 - Conversion of Access application data and databases
 - 12/2/13 – 12/5/13
 - Live in production 12/6/13
 - Also completed in this quarter:
 - Retraining for RFP deployment
 - 8 training classes, 60+ attendees
 - Training for Pathology and Fish Passage
 - Added RFP information to the IT Requests process for users to communicate RFP requests with the IT support staff
 - RFP Release updates to Production
 - 1.1 - 12/12/13
 - 1.2 – 12/19/13
 - 1.3 - 12/23/13
 - ii. *Encroachment Application (ACT 13)*
 - 1. Maintenance and user support -ongoing
 - iii. *SIR Tracking (ACT 13)*
 - 1. Release 1.3 to Production – completed 12/20/13
 - 2. User support - ongoing
 - iv. *Scientific Collectors (ACT 13)*
 - 1. Requirements gathering – Completed 07/31/13
 - 2. Prototype – Completed 08/09/13
 - 3. Development – in progress

Issue 6: Limited financial and human resources require the Commission to more effectively manage our internal resources.

Strategy 6: Strengthen performance and operations by managing limited financial and human resources more effectively.

Goal 6: Optimize agency efficiency and ensure continuity of operations through infrastructure planning and employee development.

- A. By August 2010, improve accessibility to on-going training opportunities for all staff and Commissioners.
- By July 2010, gain a better understanding of the climate of the Commission's workforce and implement strategies for improvement.
 - Complete
 - By January 2012, continue agency-wide and bureau specific implementation of climate assessment improvement items.
 - Carol Miller from the HR shop was nominated to receive the Wave of Excellence Award, a recently developed award that staff may bestow upon each other for going above the call of duty.
 - The Years of Service recognition pin program continued to be a popular program, with numerous employees receiving pins and being recognized in front of their peers for their loyal commonwealth service.
- B. By July 2012, begin implementation of a succession planning and leadership development program.
- Materials continue to be collected and developed to prepare for an internal mentoring program.
 - An internal Accelerated Grievance Procedures training has been developed and will be taught in 2014. This course is now loaded into the LSO training system.
 - Workplace Violence and SEAP/Fitness for Duty training was conducted at Stackhouse. This course is a requirement for all employees.
 - An internal Hiring Process training is in the process of being developed and will be offered in 2014.
 - An internal Effective Writing course has been developed and will be offered in 2014.
 - A course on "How to Conduct a Workplace Investigation" has been developed and will be offered in 2014. This course is now loaded into the LSO training system.
 - An internal Sexual Harassment course has been developed and will be conducted in 2014.
- C. By January 2011, begin implementation of Supervisor Development Training.
- One member of DFM completed the Commonwealth's Emerging Leaders Program.
 - One member of the DFM completed the Commonwealth's Leadership Development Institute.
 - HR will continue to conduct yearly classes for the four required Supervisory Courses. Those classes are: EPR training, Labor Relations training, and Fundamentals of Supervision training.
 - HR has created Sexual Harassment Course (as referenced above), which is one of the four required Supervisory Courses. In the past, our supervisors went to OA's training, however, this course will now be offered in-house.
- D. By September 2011, conduct a full review of State Fish Hatcheries to identify strategies for promoting cost savings with the least adverse effects on services to the angling public.

- E. By July 2012, begin implementation of a comprehensive multi-year Infrastructure Plan for the engineering, maintenance and development of the Commission's hatcheries, marinas, dams, accesses and administrative buildings to ensure continuity of critical operations.
- Development of the Infrastructure Plan is underway; staff are collecting data and compiling spreadsheets and databases in order to prioritize infrastructure repairs and ensure critical operations continue.

Issue 7: Due to the limitations of current communications systems, technologies and processes, the Commission must improve its internal and external communication methods and systems.

Strategy 7: Improve internal and external communications by strengthening the use of current communication technologies and processes.

Goal 7: Improve internal and external communications systems to develop an informed and engaged workforce and increase the public's access to and use of Commission information.

- A. By July 2010, establish a direct line of internal and external communication with the Commission's Executive Director.
- B. Deleted via Amendment 1
- C. By July 2011, begin implementation of a business plan that makes the best use of the Commission's core publications and exhibits.
- D. By January 2012, annually evaluate, and modify as needed, employee communications strategies.
- E. By July 2014, complete the redesign of the Commission's website.

Major Activities and/or Accomplishments not Directly Connected to Strategic Plan Implementation

Bureau of Boating and Outreach

Education Program Results, 10/1/2013 to 12/20/2013
Boating Safety Education

Program/activity	Number in this quarter	Number of participants
Boating Safety Education Certificates (BSEC) Issued	488	n/a
Certificates issued through distance learning	328	n/a
Certificates issued through classroom courses	160	n/a
Basic Boating Courses	3	38
Boating and Water Safety Awareness (in-school)	4	133

Angler Education & fishing promotion

Program/activity	Number this quarter	Number of participants
Fishing Tackle Loaner Sites	77	n/a
Program requests processed	40	16,850*

*estimated

- Completed preparations for the 2014 show season. The PFBC is scheduled to participate in 20 shows during the first quarter of 2014.
- Trout in the Classroom (TIC)
 - On November 4, eyed Brook Trout eggs from Benner Spring State Fish Hatchery were shipped to 247 classrooms enrolled in Trout in the Classroom for the 2013-14 school year. The Division of Fish Production Services provided technical support to teachers regarding aquarium set-ups and fish health.
 - TIC aquarium set-up and egg take videos were created and posted to the PA TIC website: www.patrouintheclassroom.org
 - The interactive map on the PA TIC website was updated.
 - The TIC program is reaching approximately 26,000 students in the 2013-14 school year.
- Conducted activities related to planning and implementation of the 2014 Mentored Youth Fishing Days. Regional staff established contacts with owner/manager of the selected waters and secured their approval.
- Printed and published digital editions (including e-zine) of the November/December and January/February *Pennsylvania Angler & Boater* magazine.
- Printed and published digital editions of the Fall and Winter editions of the PLAY newsletter.
- Updated and produced the 2014 PFBC Pocket Guides and 2014 Boating Recap brochure.
- Updated the printed and online version of the PFBC region guides.
- Updated and produced the printed and online versions of the 2014 PFBC Fishing Summary and Boating Handbook.

- Provided text on fishing and boating, and reviewed final proofs of DCED's Outdoor Recreation Guide.
- Scheduled employee training courses for first quarter 2014 on Ice Safety and Water Rescue for the First Responder.
- Completed USCG Performance Report Parts I & II, to be reported out at January 2014 Commission meeting.
- Provided comments on the USCG's Notice of Proposed Rulemaking regarding personal flotation device labeling and standards.
- Provided comments on NASBLA's Basic Boating Knowledge and Human-Powered Boating Knowledge standards.
- Prepared PFBC's Basic Boating and Boating & Water Safety Awareness courses for NASBLA review and re-certification.
- Continued meetings and preparations for PA-HART 2014 Vigilant Guard Exercise to be held second quarter 2014.
- Conducted PA-HART Training on October 25th at Fort Hunter, November 21st at Harrisburg Area Community College, and December 5th at Johnstown Army Aviation Support Facility.
- Trained Harrisburg City Fire Department instructor cadre in PA Basic Boating program as foundation for additional training to be provided in first quarter 2014.
- Represented the Commission in the Statewide Comprehensive Outdoor Recreation Plan meetings to update the state's current plan and place greater emphasis on fishing and boating recreation activities.
- Updated the PFBC's North East Marina Concession Agreement.

Office of Policy and Planning

- Advocated against the Endangered Species Coordination Act (HB 1576 and SB 1047).
- Advocated for improvements to the Recreational Use of Land and Water Act.
- Began to implement the fishing license sales marketing action plan in advance of the 2014 fishing license sales year. A fishing license sales marketing implementation committee was formed and has begun to meet to assist this effort.
- Supporting activities for the sales of 2014 fishing licenses have begun. Staff focused on e-mail blasts touting the single-year permits for multi-year license holders and fishing license vouchers in advance of the holiday season. Additional work was accomplished on planning for the non-resident license campaign for 2014, and the angler thank you campaign.

Bureau of Fisheries

- DFM staff met with Lehigh Coldwater Fishery Alliance to discuss negotiations for the 2014 FE Walter Recreational Reservoir Operations Plan.
- DFM staff attended a Lehigh River FE Walter meeting with ACOE and DCNR to plan 2014 recreational season water release plan for Lehigh River downstream from the FE Walter dam.
- Finalized an Interagency Agreement with PennDOT to establish a Statewide Mussel Compensation Fund (MCF). The Purpose of this agreement is to allow PennDOT to

contribute monies to the MCF to address mitigation commitments for bridge replacement projects in NW Pennsylvania.

- Procured funding for a project to assess the conservation status of Pennsylvania's burrowing crayfish species (a potentially threatened group of animals with limited distributions) and began developing survey protocols and plans for the first year of the project.
- Step-drawdown and continuous pump tests were conducted on Corry SFH's Foster wells to determine safe pumping rates. A monitoring plan was developed to observe impact from Foster wells pumping on private water supplies.
- A Programmatic Permit has been approved and implemented by DEP to conduct habitat improvement projects through the Environmental Review Committee process. Initial projects were run through the ERC in August 2013.
- Planning work was initiated for the Angler Thank You Campaign, which will occur on both Opening Days in 2014
- Met with other regulatory agencies and communicated with the company to address settlement of NRDA damages associated with the Centre County Kepone superfund site.

Bureau of Administration

PALS

- As of December 31, 2013: the total number of 2013 fishing licenses sold and vouchers redeemed were 860,672 which is a 0.82% increase from the same time period last year; the total number of permits sold and vouchers redeemed were 606,514 which is a 1.49% increase compared to the same period last year.

Boating

- As of November 30, 2013, the Commission's 2013 new boat registration transactions decreased 7.90% to 28,089, new titling transactions decreased 8.75% to 14,700 and boat renewals have decreased 2.54% decrease to 133,340.
- As of December 31, 2013, there were 12,422 (1) Year Launch Permits and 32,603 (2) Year Launch Permits sold, which is a 10.74% increase from 2012.

Multi-Year Licenses

- As of December 31, 2013, the Commission has sold 21,842 3-year multi-year licenses and 10,952 5-year multi-year licenses. The Commission has sold 17,964 3-year multi-year permits and 9,540 5-year multi-year permits. Almost 84% of all multi-year license buyers purchase multi-year permits.

Multi-year License and Voucher Seller's Club

- 460 issuing agent/county treasurers sold more than 10 multi-year fishing licenses or vouchers and are eligible to participate in the Multi-year License and Voucher Seller's Club.

Legal Office

- In September 2011, the Commission sued Consol Energy for civil damages resulting from the 2009 pollution incident on Dunkard Creek that caused a massive fish kill spanning nearly 30 miles of stream in West Virginia and Pennsylvania. The lawsuit sought compensatory damages for dead fish, mussels and amphibians, as well as lost fishing opportunities for Pennsylvania anglers and punitive damages to deter future pollution. The primary lawsuit was filed in West Virginia where the pollution originated. On July 12, 2013, the trial court dismissed the Commission's complaint, concluding that the Commission only has authority to bring actions for civil damages for violations of Chapter 25 of the Fish and Boat Code and has no authority to bring a cause of action under West Virginia common law. The Commission filed a notice of appeal with the West Virginia Supreme Court on August 8. On November 12, the Commission filed its brief perfecting its appeal. Consol filed its responsive brief on December 28. The Commission's reply brief is due January 17, 2014.
- On June 13, 2013, Luther T. Ridge filed a Summons in a Civil Action in the U.S. District Court for the Middle District of Pennsylvania, naming two employees within the Bureau of Law Enforcement. Following a referral to the Office of Attorney General (OAG), that office filed a motion to dismiss on July 2, asserting that the two-year statute of limitations for civil rights claims had run. That motion was briefed, and on October 25, the federal court granted the employees' motion to dismiss with prejudice. The basis for the ruling was that the two-year statute of limitations had expired.
- On June 13 2013, Gregory Catrabone filed a Writ of Summons in the Court of Common Pleas of Erie County, naming a waterways conservation officer. The officer had testified against Mr. Catrabone at a fishing license revocation hearing that resulted in the loss of Catrabone's license. The summons alleges that the officer lied under oath about the existence and contents of a video recording that shows the officer onboard Catrabone's boat. It first appeared that the summons may have been filed as a pretext to obtain a copy of the video. Following referral to the OAG, that office advised the Commission to produce the video. Despite production, Catrabone now claims that the video was doctored to support the officer's version of events. The Commission vigorously contests these allegations. On October 1, the OAG obtained an order from the court denying Catrabone any further discovery unless and until he files a formal complaint. As of the date of report preparation, Catrabone still had not filed a complaint.
- Following receipt of a notice of intent to sue from the Environmental Integrity Project for alleged violations of the Clean Water Act at the Bellefonte State Fish Hatchery, the parties met in Harrisburg on November 25, 2013. A follow-up meeting has not been scheduled as of the date of report preparation.
- On October 16, 2013, the Commission filed an appeal of its NPDES permit for the Tylersville State Fish Hatchery with the Environmental Hearing Board (EHB). The essence of the appeal is that the model that the Department of Environmental Protection (DEP) used in establishing the permit limits is flawed in that it assumes a correlation

between total suspended solids being discharged into a stream and biological condition scores developed by annual sampling of benthic macroinvertebrate communities. On November 7, 2013, staff from the Commission and DEP met to discuss possible resolution of the case. While the dispute remains unresolved, both sides are continuing to exchange information in the hopes of an eventual settlement. On December 2, the Commission's and DEP's counsel met to discuss potential electronic discovery as required under the EHB's discovery schedule, but given the progress toward an amicable resolution, no discovery has begun.

- In November 2012, the Commission terminated the employment of a fish culturist. One of the requirements for the position is possession of a valid Commercial Driver's License (CDL). The employee lost his CDL because of a conviction for driving under the influence (DUI). The employee applied for unemployment benefits but was denied. The employee appealed, and a hearing was held before an unemployment compensation referee. The employee argued that he rarely uses his CDL and the Commission could have restructured his position to eliminate his driving duties. The Commission asserted that the law does not require it to restructure a position for an employee who loses his license because of a DUI particularly when that restructuring is not operationally feasible. On January 10, 2013, the referee determined that the Commission did not follow its own policy on accommodating the former employee's license loss and thus he is entitled to unemployment compensation benefits. The Commission filed an appeal with the Unemployment Compensation Board of Review (UCBR). On May 7, the UCBR reversed the referee's decision. On June 10, the employee attempted to file an appeal with the Commonwealth Court of Pennsylvania, but he failed to raise any appealable issues. On October 7, the Commonwealth Court quashed the appeal because of this failure.
- On October 17, 2013, an unemployment compensation referee determined that while the Commission may have been justified in terminating an employee for violating its workplace violence rules, the employee's conduct did not disqualify him from unemployment benefits. The employee and a coworker were both terminated following a verbal confrontation at the workplace which ended with this employee shoving his coworker. Both employees had a history of incidents involving each other and both were terminated. On October 31, the Commission appealed the referee's decision arguing that the employee's actions in leaving his vehicle to physically confront his coworker did not constitute self-defense or justify a violation of the Commission's work rules, and the Commission asked for permission to file a brief explaining its position. On December 11, the Commission filed a brief with the UCBR focusing on legal precedent in Pennsylvania that requires an employee to retreat from a confrontation before resorting to violence in self-defense. On December 20, the UCBR denied the Commission's appeal, indicating that while it did not condone workplace violence or question the Commission's ability to terminate the employee, it would treat the employee's conduct as an act of self-defense and allow him unemployment benefits. The Commission has until January 21, 2014 to decide whether to appeal the UCBR's decision to the Commonwealth Court.

- On July 31, 2013, the Office of Administration (OA) and counsel for the Commonwealth's insurance carrier settled a workers' compensation claim from a former hatchery worker whose estate alleged that he developed terminal cancer from exposure to chemicals at the hatchery. The estate also has a products liability claim outstanding in federal court against manufacturers of the chemicals used at the hatchery. The Commission is not a party to that lawsuit, but its records have been subpoenaed and several of its employees are currently being scheduled for depositions.
- On August 23, 2013, the Pennsylvanians for Union Reform's (PFUR) filed a request under the Right-to-Know Law (RTKL) with the State Employees' Retirement System (SERS) for "[t]he names and associated home/ mailing addresses of all active members, retired members (annuitants), and inactive vested members of SERS." SERS responded to PFUR, partially granting the request and providing the names and home addresses of 34,524 SERS members. SERS also denied access to the names and home/ mailing addresses of approximately 78,784 active members employed by agencies directly under the jurisdiction of the OA; approximately 3,804 active members employed by quasi-independent and independent agencies, including the Commission; and approximately 3,561 vestees. PFUR subsequently appealed SERS's denial to the Office of Open Records (OOR). On December 19, the Commission filed a request seeking direct participant status with the OOR so that it could file a statement and additional factual information for the OOR's consideration in the appeal. The OOR subsequently granted the Commission permission to participate. In its statement, the Commission argued, among other things, that the home addresses of all of its employees are exempt from disclosure under the RTKL because the Fish and Boat Code provides that records maintained by the Commission that contain the home address of any individual do not meet the RTKL's definition of a public record.
- The Commission is working with the United States Fish and Wildlife Service (USFWS), the Pennsylvania Game Commission (PGC) and the Pennsylvania Department of Conservation and Natural Resources (DCNR) as Trustees to pursue potential claims for natural resource damages resulting from the release of hazardous substances from the Centre County Kepone Superfund Site (CCK Site) near State College. The CCK Site includes a former chemical manufacturing facility operated by the Nease Chemical Company from 1957 through 1977. Operations were eventually taken over by the Rutgers Organics Corporation. Throughout its production life, the plant produced specialty chemicals, including Kepone, an insecticide produced from 1959 to 1962, and Mirex produced in 1973 and 1974 as a fire retardant and insecticide. Releases from chemical production and storage areas have contaminated on-site soil and groundwater beneath the site, presumably to the end of production in 2003. Affected groundwater flowed into Spring Creek. Fish over the entire length of Spring Creek downstream from the site were found to contain contaminants released from the site. In September 1983, the site was placed on the United States Environmental Protection Agency's National Priorities List. From 1999 through 2011, remediation was conducted on the site that included pumping and treating contaminated groundwater, excavation and off-site disposal of contaminated soil, surface water drainage improvement, fencing, deed restrictions and

monitoring. The Trustees have met to discuss recovery of natural resource damages at the site. Rutgers Organics has been notified of the potential claim and has indicated a willingness to meet with the Trustees.

- The Commission is working with the National Oceanic and Atmospheric Administration (NOAA), the USFWS, DEP and DCNR as Trustees to pursue potential claims for natural resource damages resulting from the release of hazardous substances from the Metal Bank Superfund Site, which is located on the western shore of the Delaware River in Philadelphia. According to available information, from 1962 to 1985, the site was used for scrap metal storage. For approximately five years, during the late 1960s and early 1970s, electrical transformer salvage operations were performed at the site. Some of the salvaged transformers contained PCBs, which were released to soils and groundwater at the site, eventually seeping into the Delaware River and contaminating river surface water and sediment. The Trustees met with the responsible parties for the first time on November 5, 2013 to discuss the Trustees' claim for natural resources damages. NOAA is the lead administrative trustee.

Bureau of Hatcheries

- A total of 118,200 adult trout were stocked into 119 water areas
- 2014 adult trout stocking schedule is complete and will be online in February
- A public meeting was held at the Corry State Fish Hatchery with local landowners concerning wells for the Corry hatchery
- Channel Catfish, Tiger Muskellunge and Muskellunge stockings completed for 2013
- Union City Water Authority Meeting to discuss Land Use Agreement
- Harvested Hankins Pond, 70 acre pond, production fish for the last time
- New Zealand Mudsnails, an aquatic invasive species, were discovered in Spring Creek near two of our state fish hatcheries
- The design for renovations at Reynoldsdale State Fish Hatchery are ongoing and the final design is due in January 2014

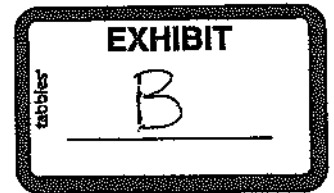
WarmCool Water Stockings for the following date range:

10/1/13 thru 12/24/13

Summary Information of Species Stocked:

<u>SPECIES</u>	<u>LIFESTAGE</u>	<u>WEIGHT(LBS)</u>	<u>NUMBER STOCKED</u>
Black Crappie	FING	485.80	8,240
Brown Bullhead	FING	195.90	4,744
Brown Trout - Hatchery	FING	3,493.20	30,766
Chain Pickerel	FING	123.20	418
Channel Catfish	FING	838.73	165,854
Fathead Minnow	ADLT	35.00	23,000
Golden Shiner	FING	39.00	6,000
Lake Trout	FING	51.20	3,000
Largemouth Bass	FING	604.00	2,489
Muskellunge	FING	5,797.30	99,907
Tiger Muskellunge	FING	322.30	4,778
White Crappie	FING	304.10	22,518

PENNSYLVANIA FISH AND BOAT COMMISSION
Notational Vote



Dates for April 2014 Commission Meeting.

Commentary:

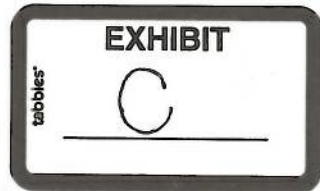
At the October 2013 Commission meeting, the Commission established the dates for its regular meetings in 2014. The dates that the Commission established for its spring 2014 meeting were April 28-29, 2014 (Monday and Tuesday). However, after the dates were established, one of the Commissioners identified a conflict with these dates and requested that the dates be changed. The proposed dates for the spring meeting are May 5 and 6, 2014 (Monday and Tuesday). The May 2014 meeting will be held at a location designated by the Commission for the transaction of business.

Recommendation:

Staff recommend that the Commission approve May 5 and 6, 2014 as the dates for the regular spring meeting of the Commission.

Action:

On October 25, 2013, the Commission approved May 5 and 6, 2014 as the dates for the regular spring meeting of the Commission.



[Vertical] Conventional Wells		[Nonvertical Wells]		[Marcellus Shale Wells]	
Total Well Bore Length in Feet	Total Fee	[Total Well Bore Length in Feet	Total Fee]	[Total Well Bore Length in Feet	Total Fee]
3,501 to 4,000	\$450	[3,001 to 3,500	\$1,300]	[3,001 to 3,500	\$1,300]
4,001 to 4,500	\$500	[3,501 to 4,000	\$1,400]	[3,501 to 4,000	\$1,400]
4,501 to 5,000	\$550	[4,001 to 4,500	\$1,500]	[4,001 to 4,500	\$1,500]
5,001 to 5,500	\$650	[4,501 to 5,000	\$1,600]	[4,501 to 5,000	\$1,600]
5,501 to 6,000	\$750	[5,001 to 5,500	\$1,700]	[5,001 to 5,500	\$1,700]
6,001 to 6,500	\$850	[5,501 to 6,000	\$1,800]	[5,501 to 6,000	\$1,800]
6,501 to 7,000	\$950	[6,001 to 6,500	\$1,900]	[6,001 to 6,500	\$1,900]
7,001 to 7,500	\$1,050	[6,501 to 7,000	\$2,000]	[6,501 to 7,000	\$2,000]
7,501 to 8,000	\$1,150	[7,001 to 7,500	\$2,100]	[7,001 to 7,500	\$2,100]
8,001 to 8,500	\$1,250	[7,501 to 8,000	\$2,200]	[7,501 to 8,000	\$2,200]
8,501 to 9,000	\$1,350	[8,001 to 8,500	\$2,300]	[8,001 to 8,500	\$2,300]
9,001 to 9,500	\$1,450	[8,501 to 9,000	\$2,400]	[8,501 to 9,000	\$2,400]
9,501 to 10,000	\$1,550	[9,001 to 9,500	\$2,500]	[9,001 to 9,500	\$2,500]
10,001 to 10,500	\$1,650	[9,501 to 10,000	\$2,600]	[9,501 to 10,000	\$2,600]
10,501 to 11,000	\$1,750	[10,001 to 10,500	\$2,700]	[10,001 to 10,500	\$2,700]
11,001 to 11,500	\$1,850	[10,501 to 11,000	\$2,800]	[10,501 to 11,000	\$2,800]
11,501 to 12,000	\$1,950	[11,001 to 11,500	\$2,900]	[11,001 to 11,500	\$2,900]
		[11,501 to 12,000	\$3,000]	[11,501 to 12,000	\$3,000]

(b) An applicant for a [vertical] conventional well exceeding 12,000 feet in total well bore length shall pay a permit application fee of \$1,950 + \$100 for every 500 feet the well bore extends over 12,000 feet. Fees shall be rounded to the nearest 500-foot interval under this subsection.

(c) An applicant for [a nonvertical well or Marcellus Shale well exceeding 12,000 feet in total well bore length] an unconventional well shall pay a permit application fee [of \$3,000 + \$100 for every 500 feet the well bore extends over 12,000 feet. Fees shall be rounded to the nearest 500-foot interval.] according to the following:

- (1) \$4,200 for a vertical unconventional well.
- (2) \$5,000 for a nonvertical unconventional well.

(d) If, when drilled, the total well bore length of the conventional well exceeds the length specified in the permit application due to target formation being deeper than anticipated at the time of application submittal, the operator shall pay the difference between the amount paid as part of the permit application and the amount required by subsections [(a)—(c)] (a) and (b).

(e) An applicant for a [vertical] conventional well with a well bore length of 1,500 feet or less for home use shall pay a permit application fee of \$200.

* * * * *

[Pa.B. Doc. No. 13-1666. Filed for public inspection September 13, 2013, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE. CH. 51]

Administrative Provisions; Resident and Nonresident Fishing Licenses

The Fish and Boat Commission (Commission) proposes to amend Chapter 51 (relating to administrative provisions). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments

modify and update the Commission's general regulations pertaining to fishing licenses.

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. *Statutory Authority*

The proposed amendment to § 51.32 (relating to resident and nonresident licenses) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. *Purpose and Background*

The proposed rulemaking is designed to improve, enhance and update the Commission's administrative regulations. The specific purpose of the proposed amendment is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Under § 51.32(d), a Senior Resident Lifetime Fishing License becomes invalid when the holder establishes residency in another state. While not as specific as § 51.32(d), § 51.32(a) and (c) have been interpreted to mean that other fishing licenses become invalid upon a change in residency.

With the advent of multiyear fishing licenses, the Commission anticipates some confusion arising among anglers who purchase a multiyear license, move out-of-State and expect to be able to continue fishing with the multiyear license. The Commission believes that the benefits of providing clarity to anglers and encouraging fishing outweigh revenue to be gained by requiring license holders to purchase a new fishing license after they change their state of residence. License holders will still be required to display their license and possess a positive means of identification as required under section 2703(a) of the code (relating to possession and display of licenses).

The Commission proposes to amend § 51.32 to read as set forth in Annex A.

F. *Paperwork*

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. Fiscal impacts to the Commission will be nominal.

The proposed rulemaking will not impose new costs on the private sector or the general public. It will result in a cost savings to anglers who purchase a resident license and then move out of this Commonwealth prior to the expiration of the license. These anglers will not be required to purchase a nonresident license until their current license expires.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/reg comments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the

comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-250. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

Subchapter D. ISSUING AGENTS

§ 51.32. Resident and nonresident licenses.

(a) Only bona fide residents of this Commonwealth who establish their resident status by producing a Pennsylvania motor vehicle driver's license or other positive means of identification are entitled to **obtain** one of the various forms of a resident fishing license.

* * * * *

(d) [**A Senior Resident Lifetime Fishing License is valid only so long as the holder is a bona fide resident of this Commonwealth. A holder of a Senior Resident Lifetime Fishing License who establishes residence in another state and continues to fish in this Commonwealth without purchasing a Nonresident Fishing License may be charged with violating sections 923(c) and 2703 of the code (relating to additional penalty for fishing without license; and possession and display of licenses).**] A resident fishing license will remain valid for the year or years for which it is issued regardless of whether the holder is no longer a bona fide resident of this Commonwealth.

[Pa.B. Doc. No. 13-1667. Filed for public inspection September 13, 2013, 9:00 a.m.]

[58 PA. CODE CH. 93]

Boating; Registration and Numbering

The Fish and Boat Commission (Commission) proposes to amend Chapter 93 (relating to boat registration and numbering). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments modify and update the Commission's boating regulations.

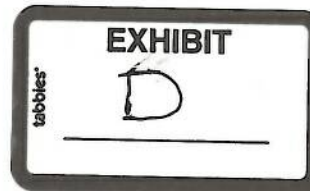
A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on April 1, 2014, or upon final-form publication in the *Pennsylvania Bulletin*, whichever occurs later.

B. *Contact Person*

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

PROPOSED RULEMAKING



5463

C. Statutory Authority

The proposed amendment to § 51.32 (relating to resident and nonresident licenses) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's administrative regulations. The specific purpose of the proposed amendment is described in more detail under the summary of proposal.

E. Summary of Proposal

Under § 51.32(d), a Senior Resident Lifetime Fishing License becomes invalid when the holder establishes residency in another state. While not as specific as § 51.32(d), § 51.32(a) and (c) have been interpreted to mean that other fishing licenses become invalid upon a change in residency.

With the advent of multiyear fishing licenses, the Commission anticipates some confusion arising among anglers who purchase a multiyear license, move out-of-State and expect to be able to continue fishing with the multiyear license. The Commission believes that the benefits of providing clarity to anglers and encouraging fishing outweigh revenue to be gained by requiring license holders to purchase a new fishing license after they change their state of residence. License holders will still be required to display their license and possess a positive means of identification as required under section 2703(a) of the code (relating to possession and display of licenses).

The Commission proposes to amend § 51.32 to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. Fiscal impacts to the Commission will be nominal.

The proposed rulemaking will not impose new costs on the private sector or the general public. It will result in a cost savings to anglers who purchase a resident license and then move out of this Commonwealth prior to the expiration of the license. These anglers will not be required to purchase a nonresident license until their current license expires.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the Pennsylvania Bulletin. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/reg comments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the

comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY, Executive Director

Fiscal Note: 48A-250. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

Subchapter D. ISSUING AGENTS

§ 51.32. Resident and nonresident licenses.

(a) Only bona fide residents of this Commonwealth who establish their resident status by producing a Pennsylvania motor vehicle driver's license or other positive means of identification are entitled to obtain one of the various forms of a resident fishing license.

* * * * *

(d) [A Senior Resident Lifetime Fishing License is valid only so long as the holder is a bona fide resident of this Commonwealth. A holder of a Senior Resident Lifetime Fishing License who establishes residence in another state and continues to fish in this Commonwealth without purchasing a Nonresident Fishing License may be charged with violating sections 923(c) and 2703 of the code (relating to additional penalty for fishing without license; and possession and display of licenses).] A resident fishing license will remain valid for the year or years for which it is issued regardless of whether the holder is no longer a bona fide resident of this Commonwealth.

[Pa.B. Doc. No. 13-1667. Filed for public inspection September 13, 2013, 9:00 a.m.]

[58 PA. CODE CH. 93]

Boating; Registration and Numbering

The Fish and Boat Commission (Commission) proposes to amend Chapter 93 (relating to boat registration and numbering). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments modify and update the Commission's boating regulations.

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on April 1, 2014, or upon final-form publication in the Pennsylvania Bulletin, whichever occurs later.

B. Contact Person

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. Statutory Authority

The proposed amendments to § 93.2 (relating to permanent and temporary registration) are published under the statutory authority of section 5122 of the code (relating to registrations, licenses, permits, plates and statistics). The proposed amendments to § 93.13 (relating to issuing agents) are published under the statutory authority of section 5304 (relating to issuing agents).

D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's boating regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposals. On May 8, 2013, the Commission's Boating Advisory Board considered the proposal and recommended that the Commission approve the publication of a proposed rulemaking.

E. Summary of Proposals

Currently, the Commission and authorized issuing agents issue temporary boat registrations to persons applying for the registration of boats in this Commonwealth. Temporary boat registration is used for boats that are new or were, not previously registered in this Commonwealth, boats being transferred between owners and boats currently registered in this Commonwealth as unpowered that are being changed to a power boat registration status. Under current regulations, applicants complete Form REV-336, Application for Pennsylvania Boat Registration and/or Title, and are issued a Temporary Validation Decal (T-decal) to affix to the boat.

The annual cost to the Commission to produce, distribute and account for the T-decals is estimated to be \$42,000. The Commission proposes to eliminate the use of the T-decal to save approximately \$42,000 annually in decal production costs, postage for mailing decals to issuing agents and personnel costs associated with accounting and inventorying of the decals. Elimination of the T-decals will also result in time and cost savings to issuing agents in that they will no longer have to issue T-decals, maintain a supply or pay \$52 for each lost decal.

Issuing agents will continue to collect currently required registration information on Form REV-336. Form REV-336 is a carbonless, three-copy form used in the registration process. The green copy, or customer copy, is provided to the applicant upon completion of the registration process by the issuing agent. Boaters will continue to be required to produce the green customer copy of Form REV-336 to verify a temporary registration but will no longer be required to display T-decals on the side of the boat that has been registered.

Currently, boaters shall remove previously issued or expired registration decals from boats. With the elimination of the T-decals, an empty space following the registration number sequence on the hull of the boat will indicate that the boat may have a temporary registration status. Upon request by a waterways conservation officer (WCO), a boater will be required to produce the green customer copy of Form REV-336 as proof of the temporary registration. Elimination of the T-decal will not change the current requirement to carry and produce the customer copy of Form REV-336. It is also expected that elimination of the T-decal may increase customer contact between boaters and WCOs and provide WCOs with an opportunity to share additional educational information with boaters.

The Commission therefore proposes to amend §§ 93.2 and 93.13 to read as set forth in Annex A

F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will result in cost savings to the Commission in the amount of approximately \$42,000 per year in decal production costs, postage for mailing decals to issuing agents and personnel costs associated with accounting and inventorying of the decals. The proposed rulemaking will not impose new costs on the private sector or the general public. The proposed rulemaking will result in cost savings to issuing agents in that they will no longer have to issue T-decals, maintain a supply or pay \$52 for each lost decal.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/reg comments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-247. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 93. BOAT REGISTRATION AND NUMBERING

Subchapter A. REGISTRATION OF BOATS

§ 93.2. Permanent and temporary registration.

(a) *Boat not previously registered in this Commonwealth.*

(1) A person acquiring a boat which has not been previously registered in the person's name in this Commonwealth shall complete an application for boat registration as set forth in § 93.3 (relating to application for boat registration). The applicant will receive a copy of the completed application which will be recognized as the boat's certificate of registration for [a period specified in subsection (e)] 60 days including the date of issuance. This temporary certificate of registration shall be carried on the boat when the boat is in operation and shall be available for inspection by an authorized officer. [The new owner will receive a set of temporary validation decals from the authorized issuing agent who will enter the expiration date (month/day/year), calculated in accordance with subsection (e), on the decal. Before the boat is operated, these temporary validation decals shall be displayed on

each side of the bow—the front half—of the boat in a position to provide for maximum visibility.]

(2) The owner or operator shall [remove and replace the temporary validation decals with] apply the biannual validation decals when received from the Commission. The biannual validation decals shall be displayed on the boat in accordance with § 93.5 (relating to display of registration number and validation decal). The Commission will assign a registration number to the boat which shall be displayed in accordance with § 93.5. This assigned registration number will remain with this boat as long as the boat is registered in this Commonwealth. The new owner will also receive, from the Commission, a biannual certificate of registration card which shall be carried onboard the boat while it is being operated.

(b) *Boat previously registered in this Commonwealth but having expired registration.*

(1) A person acquiring a boat which has been previously registered in another person's name in this Commonwealth and possesses an expired registration shall complete an application for boat registration as set forth in § 93.3. The applicant will receive a copy of the completed application which will be recognized as the boat's certificate of registration for [a period specified in subsection (e)] 60 days including the date of issuance. This temporary certificate of registration shall be carried on the boat when the boat is in operation and shall be available for inspection by an authorized officer. [The new owner will receive a set of temporary validation decals from the authorized issuing agent who will enter the expiration date (month/day/year), calculated in accordance with subsection (e), on the decal. Before the boat is operated, these temporary validation decals shall be displayed on each side of the bow—the front half—of the boat in a position to provide for maximum visibility.] If the boat is displaying expired validation decals, the owner or operator shall remove the expired validation decals [and replace them with the temporary validation decals]. The previously assigned registration number currently on the boat will remain with the boat as long as the boat is registered in this Commonwealth.

(2) The owner or operator shall [remove and replace the temporary validation decals with] apply the biannual validation decals when received from the Commission. The biannual validation decals shall be displayed on the boat in accordance with § 93.5. The new owners will also receive from the Commission a biannual certificate of registration card which shall be carried onboard the boat while it is being operated.

(c) *Boat previously registered in this Commonwealth having current registration.*

(1) A person acquiring a boat which has been previously registered in another person's name in this Commonwealth displaying current biannual validation decals shall complete an application for boat registration as set forth in § 93.3. The applicant will receive a copy of the completed application which will be recognized as the boat's certificate of registration for [a period specified in subsection (e)] 60 days including the date of issuance. This temporary certificate of registration shall be carried on the boat when the boat is in operation and shall be available for inspection by an authorized officer. [The new owner will receive a set of temporary validation decals from the authorized issuing agent

who will enter the expiration date (month/day/year), calculated in accordance with subsection (e), on the decal.] Before operating the boat on the waters of this Commonwealth, the owner or operator shall remove the prior validation decals [and replace them with the temporary validation decals]. The previously assigned registration number will remain with the boat as long as the boat is registered in this Commonwealth. It is unlawful for a person, acquiring a boat described in this subsection to operate the boat on the waters of this Commonwealth until the registration is transferred to the new owner as provided in this section.

* * * * *

(e) [*Temporary decals.* The temporary validation decals are valid for 60 days including the date of issuance. The owner or operator shall ensure that the temporary validation decals are removed and the biannual validation decals, when received from the Commission, are displayed in place of the temporary validation decals. The temporary validation decal shall display the date on which it expires in the following format: "Expires (month)/(day)/(year)." The authorized issuing agent shall enter the expiration date (month/day/year) on the decal.

(f) [*Temporary Internet registration renewals.* Temporary Internet registration renewals shall be valid for [30] 60 days from the date of issuance. A temporary Internet registration renewal shall be available at all times for inspection on the boat for which it was issued whenever the boat is in operation and shall be carried so that it can be presented upon request to an officer authorized to enforce the code.

§ 93.13. Issuing agents.

* * * * *

(b) *Maintaining an agency.*

* * * * *

(2) To maintain an agency, the agent or a designee who is routinely involved in the issuance of temporary [validation decals or the registration of boats] boat registrations shall successfully complete, at least once every 2 years, training offered by the Commission at a location designated by the Executive Director.

* * * * *

(e) *Operation of an agency.*

* * * * *

(3) [Issuing agents shall store temporary validation decals and related documentation in a secure location within the agent's premises and may not remove the decals or related documentation from the agent's premises without the Commission's written permission.

(4) [Issuing agents shall retain copies of all applications and related documentation for the current calendar year and the 2 previous years.

[(5)] (4) Issuing agents shall have access to nonpublic information concerning holders of boat registrations and titles, including their home addresses. Issuing agents who are provided nonpublic information about boat registration holders or boat owners' in the course of their duties may not release or disclose the nonpublic information except for official purposes.

[(6)] (5) Issuing agents shall permit the inspection during regular business hours of the agent's premises and business records by Commission employees designated by the Executive Director or officers authorized to enforce the code.

(f) *Issuance of temporary boat registrations.*

* * * * *

(6) [An issuing agent shall issue temporary validation decals in numerical sequence, beginning with the lowest number.] An issuing agent shall enter the expiration date (month/day/year) on the completed application which will be recognized as the boat's temporary registration.

(7) [An issuing agent shall indicate on temporary validation decals the month, day and year the temporary registration expires, using a black waterproof permanent ink marker or paint marker. The agency may not place any other marks on the decal.

(8) [Within 10 days of the issuance of a temporary boat registration, the issuing agent shall submit to the Commission a properly completed "[T-Sticker] Temporary Registration Summary Report" (Form PFBC-725) along with all applications, related documentation, applicable fees and Sales and Use Tax as required by the code, this chapter and the *Handbook for Issuing Pennsylvania Boat Registrations and Titles*.

(g) [Inventory of decals. Upon the Commission's request, an issuing agent shall submit an inventory report on the form prescribed by the Commission, accounting for all temporary validation decals in the agent's possession. The agent shall submit a complete and accurate inventory within 10 days of the agent's receipt of the Commission's request.

(h) *Voided decals.* When an issuing agent voids a temporary validation decal, the agent shall forward to the Commission the voided decal along with a report on the form prescribed by the Commission, explaining why the decal was voided. The agent shall forward the voided decal and the report within 10 days of the decal being voided.

(i) *Lost, stolen or missing decals.* An issuing agent shall notify the Commission in writing of any lost, stolen or missing temporary validation decal within 48 hours of the agent's discovery of the lost, stolen or missing decal. The Commission may charge the agent a fee that is two times the highest annual boat registration fee for each decal that is lost, stolen or missing.

(j) *Replacement decals.* An issuing agent may not issue a replacement temporary validation decal without the Commission's approval.

(k) [Used boats sold by dealers. An issuing agent may not submit to the Commission a Form REV-336 and related documentation from an applicant who purchased a used boat from a dealer and does not possess a properly completed "Dealer Notification of Boat Trade-In" (Form PFBC-TS1).

[(1)] (h) *Acceptance of applications for permanent registrations or titles.* Within 10 days of the acceptance of the Form REV-336 and related documentation for a permanent registration or title, the issuing agent shall forward to the Commission, using the "[T-Sticker] Temporary Registration Summary Report" (Form

PFBC-725), all applications, related documentation, applicable fees and Sales and Use Tax as required by the code [or], this chapter and the *Handbook for Issuing Pennsylvania Boat Registrations and Titles*.

[(m)] (i) *Commission offices.* The Commission will collect and deposit in the Boat Fund the \$2 issuing agent fee for all temporary boat registrations issued by Commission offices and boat registration renewals issued online.

[(n)] (j) *Recall of agency.* The Commission may recall the agency of an issuing agent who violates the code or this chapter. A conviction of an offense under the code or this chapter is not a prerequisite to initiating an action to recall an agency. The Executive Director or a designee may initiate action to recall an agency by serving an order to show cause on the agent, which order will describe the alleged violation of the code or this chapter. Proceedings to recall an agency shall be governed by 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

[(o)] (k) *Renewal of boat registrations.* It is unlawful for a person, other than the Commission, Commission offices and on-line messenger services approved by the Department of Transportation, to issue renewals for boat registrations or collect the applicable fees.

[Pa.B. Doc. No. 13-1668. Filed for public inspection September 13, 2013, 9:00 a.m.]

[58 PA. CODE CH. 63]

Fishing; Authorized Devices

The Fish and Boat Commission (Commission) proposes to amend Chapter 63 (relating to general fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. *Statutory Authority*

The proposed amendments to § 63.6 (relating to authorized devices for game fish, baitfish and fishbait) are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. *Purpose and Background*

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Section 63.6(a) limits the number of hooks per line to three (a single hook, as defined in this Commonwealth, may contain up to three points). Recently, several individuals and a representative from a tournament angling



**Pleasant
Gap
SFH**

**Manager's
Dwelling
Parcel**

SR 144

Robinson Lane

**Property Disposition
Pleasant Gap SFH
Manager's Dwelling Parcel**

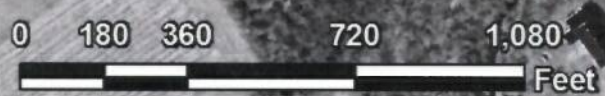


Exhibit E

Source: Esri, DigitalGlobe, GeoEye, Earthstar, USDA, AerialGrid, IGN, IGP, swisstopo, and the GIS User Community



Speedwell Forge Lake

Lake View Drive

Required Driveway Easement

driveway

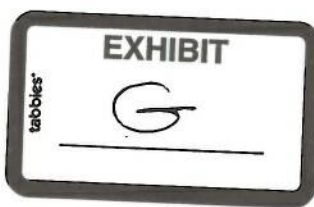
Neighboring Property

**Easement Disposition
Speedwell Forge Lake**

Exhibit F

Sources: Esri, DigitalGlobe, GeoEye, Earthstar, USDA, USGS, Aero, Cairns
aerialphoto, and the GIS User Community





PROPOSED RULEMAKING

7099

SEASONS	MINIMUM SIZE	DAILY LIMIT
Extended Season: Approved trout waters and all waters downstream of approved trout waters 12:01 a.m. day after Labor Day to midnight last day of February of the following year	7 inches	3 (combined species) except Class A wild trout streams where the daily limit is 0, and areas with special regulations (see Chapter 65)

* * * * *

[Pa.B. Doc. No. 13-2264. Filed for public inspection December 6, 2013, 9:00 a.m.]

[58 PA. CODE CH. 65]

Special Fishing Regulations; Mentored Youth Fishing Day Program

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. Statutory Authority

Proposed § 65.20 (relating to Mentored Youth Fishing Day Program) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

Most often, parents or guardians are the source of both instruction and serve as mentors to young anglers and hunters. The role of a mentor is that of long-term development and socialization. An instructor can teach someone to fish, while a mentor helps them become an angler (Duda M.D., 2010). That is, while proper instruction is important, it alone does not guarantee adoption. This is especially true if a mentor or other social support is absent.

Benefits of mentored experiences also extend to the parents or mentors. A 2007 survey of trout anglers in this Commonwealth showed that 98% of those surveyed would go trout fishing more if asked by a child (Responsive Management, 2008). Of that number, 84% indicated that being asked by a child to take them fishing was a strong encouragement to go trout fishing more in this Commonwealth.

Mentored opportunities differ from educational programs significantly in that mentored experiences extend beyond the instructional period. Mentors plan and discuss the trip with the apprentice before, during and after. An instructor only has contact with the young angler during the presentation. It is this premise on which youth hunts and mentored hunting programs are based (DJ Case & Associates, 2007) (Responsive Management, 2011) (Responsive Management and Southwick Associates, 2012).

This premise is the supporting rationale behind the Commission's Mentored Youth Fishing Day Program.

On March 23, 2013, the Commission piloted a Mentored Youth Trout Fishing Day on 12 waters in the regional opening day zone, covering 18 southcentral and southeast counties. This day was accomplished by the Commission's Executive Director acting under the authority of § 65.25 (relating to temporary changes to fishing regulations). The temporary change was published at 43 Pa.B. 114 (January 5, 2013).

To participate, anglers 16 years of age or older (adult anglers) were required to possess a valid Pennsylvania fishing license and current trout/salmon permit and be accompanied by a youth (less than 16 years of age) who registered with the Commission. Youth anglers must have been registered with the Commission and accompanied by an adult angler to participate. During the Mentored Youth Trout Fishing Day, the minimum size limit for trout was 7 inches and the creel limit was two trout per day (combined species). Other Commonwealth inland regulations applied. It was unlawful for adult anglers to fish in waters designated under the Mentored Youth Trout Fishing Day Program without a valid fishing license and trout permit and without being accompanied by a registered youth.

A total of 5,110 youth registered to participate in the Mentored Youth Trout Fishing Day pilot, accompanied by 3,846 adult mentors. A survey of mentors conducted by the Commission showed that 90% of the registered youth participated, resulting in an estimated 7,300 youth and their mentors taking part. These anglers fished an estimated 22,000 hours and released nearly 15,000 trout while harvesting slightly more than 6,000. Public, partner and staff feedback received before, during and immediately after the pilot day was predominantly positive. The results of the 2013 pilot program support expansion of the program to create additional opportunities for parents and mentors to take the children in their lives fishing as a way to reactivate anglers of all ages.

E. Summary of Proposal

Under this proposed rulemaking, the Executive Director may annually designate Mentored Youth Fishing Days and, when doing so, he will identify the species, waters, dates, creel and minimum size limits and other limitations that will apply. The specific details of these mentored youth fishing opportunities will be published in the *Pennsylvania Bulletin*. Staff will also post the Mentored Youth Fishing Day Program guidelines to the Commission's web site and promote it through various media outlets.

To participate, an angler 16 years of age or older must be accompanied by a youth (less than 16 years of age) who is registered with the Commission. Youth anglers must be registered with the Commission and be accompa-

PROPOSED RULEMAKING

nied by an angler 16 years of age or older. Youth anglers will be able to register at no cost through the Commission's existing Pennsylvania Automated Licensing Service.

The Commission proposes to add § 65.20 to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-252. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.20. Mentored Youth Fishing Day Program.

(a) The Executive Director may annually designate Mentored Youth Fishing Days. As part of the designation, the Executive Director will identify the species, waters, dates, creel and minimum size limits and other applicable limitations. The designation will be effective upon publication of a notice in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in waters designated as part of the Mentored Youth Fishing Day Program except in compliance with the following requirements:

(1) Anglers shall adhere to the limitations as established by the Executive Director by notice in the *Pennsylvania Bulletin*.

(2) An angler 16 years of age or older shall be accompanied by a youth (less than 16 years of age) who is registered with the Commission.

(3) A youth angler shall be registered with the Commission and be accompanied by an angler 16 years of age or older.

(c) Notwithstanding the requirements of this section, an angler in a boat may possess fish caught in compliance with the seasons, sizes and creel limits in effect for the water from which taken, provided that the boat angler floats through the water designated as part of the Mentored Youth Fishing Day Program without stopping or engaging in the act of fishing or the boat angler takes out his boat at an access point within the water designated as part of the Mentored Youth Fishing Day Program.

[Pa.B. Doc. No. 13-2255. Filed for public inspection December 6, 2013, 9:00 a.m.]

organization requested that the Commission accommodate use of the "Alabama rig." The Alabama rig is an umbrella type rig that contains five lures on short wire lines that merge to one point for attachment to a fishing line. The Alabama rig has been observed to be used in this Commonwealth by the Division of Fisheries Management staff as fished with three hooked lures and two "teaser" lures not containing hooks. After the Bureau of Fisheries and the Bureau of Law Enforcement explored the issue, a sound biological or enforcement reason was not found to change the regulation to allow for this type of tackle.

Although initial interest to change the regulation came from a black bass organization, changes to the regulation would affect other species as well. Striped bass anglers also use this type of device.

With respect to black bass, it appears that use of the rig in other states has been directed to a rather small component of black bass populations, that is, bass that occupy habitats that were lightly exploited or that were previously not vulnerable to capture using conventional gear types. Where habitats exist and are occupied by black bass in this Commonwealth, the Commission might expect an increase in catch. The fraction of catch that is harvested is typically low for black bass, 7% as measured in the 2007 Susquehanna River Creel survey. Likewise, the percentage of released bass that perish is typically low (10-12%) as measured in reservoirs in this Commonwealth and elsewhere using conventional tackle. Commission staff presume that catch and release loss associated with the Alabama Rig will likewise be low.

Commission staff looked at the regulations of surrounding states and found that there is not a real consensus in terms of a limit on hooks. Several states allow more than three hooks or do not have a limit on hooks. New Jersey allows up to nine hooks or three treble hooks per line while New York allows five baits/lures. Virginia and West Virginia do not have limits on rods or hooks except for trout fishing. Ohio is the only state that has a regulation that closely mirrors the Commonwealth's with a two-rod/three-hook maximum.

The Commission therefore proposes to amend § 63.6 to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/reg comments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the

comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-249. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.6. Authorized devices for game fish, baitfish and fishbait.

(a) It is unlawful to fish for game fish with more than three lines of any description, whether fished by rod or by hand, at one time except while ice fishing in accordance with § 63.10 (relating to ice fishing). [No more than three hooks may be attached to line used in fishing for game fish.] There is not a restriction on the number of hooks used for fishing for game fish. Rods, lines and hooks shall be under the immediate control of the person using them. A fishing device shall be deemed to be under the immediate control of the person using it if, when the terminal device (hook, bait or lure) is taken by a fish, the person using the device has direct control over it and it is not connected at that point to a casting or depth placement aid such as a casting boat or downrigger. Casting or depth placement aids such as downriggers or small remote controlled boats are not prohibited by this chapter.

(b) It is unlawful to fish for baitfish with more than three lines of any description, whether fished by rod or by hand, at one time [with not more than three hooks attached to each line]; a dip-net or minnow seine not over 4 feet square or 4 feet in diameter, and a minnow trap, with not more than two openings, which may not exceed 1 inch in diameter. There is not a restriction on the number of hooks used for fishing for baitfish. Rods, lines, hooks, nets and seines used in fishing for fishbait and baitfish shall be under the immediate control of the person using the same. For the purposes of this subpart, gizzard shad (*Dorosoma cepedianum*) 8 inches or less in length are considered baitfish.

* * * * *

[Pa.B. Doc. No. 13-1669. Filed for public inspection September 13, 2013, 9:00 a.m.]

[58 PA. CODE CH. 69]

Fishing; Lake Erie and Boundary Lakes

The Fish and Boat Commission (Commission) proposes to amend Chapter 69 (relating to fishing in Lake Erie and boundary lakes). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. Statutory Authority

The proposed amendments to § 69.12 (relating to seasons, sizes and creel limits—Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters) are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposal.

E. Summary of Proposal

At the October 2012 Commission meeting, 45 waters were moved from the Early Season Trout Stocked Waters Program to the Approved Trout Waters Open to Year-Round Fishing Program. Included in these changes were the Water Works Ponds (East Basin Pond and West Basin Pond) on Presque Isle Bay. Regulations under the Approved Trout Waters Open to Year-Round Fishing Program permit fishing for trout year-round, except from March 1 through the opening day of trout season, when only catch and release fishing is permitted for trout. The current regulations on Lake Erie tributary streams and the Water Works Ponds prohibit fishing from 12:01 a.m. on the Friday before the first Saturday after April 11 until 8 a.m. on the first Saturday after April 11. This was irrelevant under the Early Season Trout Stocked Waters Program since fishing was not permitted from April 1 to the opening day. However, with the change in designation to approved trout waters open to year-round fishing, fishing is permitted during the period that is currently closed to fishing immediately prior to the opening day.

The Commission therefore proposes to amend § 69.12 to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/reg comments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-248. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 58. RECREATION****PART II. FISH AND BOAT COMMISSION****Subpart B. FISHING****CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES****Subchapter B. SPORT FISHING AND ANGLING**

§ 69.12. Seasons, sizes and creel limits—Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters.

* * * * *

(d) It is unlawful to fish in or along any Lake Erie tributary stream [or the Water Works Ponds at Presque Isle State Park] from 12:01 a.m. on the Friday before the first Saturday after April 11 until 8 a.m. on the first Saturday after April 11.

(e) It is unlawful to possess trout or salmon in or along any Lake Erie tributary stream [or the Water Works Ponds at Presque Isle State Park] from 12:01 a.m. on the Friday before the first Saturday after April 11 until 8 a.m. on the first Saturday after April 11.

(f) [Subject to the provisions of] Except as otherwise provided in subsections (d) and (e) and this subpart, the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters:

* * * * *

[Pa.B. Dec. No. 13-1570. Filed for public inspection September 13, 2013, 9:00 a.m.]

STATEMENTS OF POLICY

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 57]

Class A Wild Trout Streams

The Fish and Boat Commission (Commission) proposes to amend § 57.8a (relating to Class A wild trout streams). Although not required to publish a proposed statement of policy to adopt revisions to a statement of policy, the Commission is publishing the proposed amendments and seeking public comments because of the heightened public interest in this issue. The Commission is publishing this proposed statement of policy under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. Effective Date

The proposed statement of policy, if approved, will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed statement of policy, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed statement of policy is available on the Commission's web site at www.fish.state.pa.us.

C. Statutory Authority

The proposed statement of policy are published under the statutory authority of section 321 of the code (relating to administration and enforcement) that provides that the Commission shall administer and enforce the code and other laws of the Commonwealth regarding the protection, propagation and distribution of fish.

D. Purpose and Background

In October 2009, the Commission approved the Strategic Plan for Management of Trout Fisheries in Pennsylvania 2010-2014 (plan). The plan was developed based on input provided by a work group that consisted of Commission staff, anglers affiliated with a variety of sportsmen's organizations and independent trout anglers that are not affiliated with an organized group. This plan has guided the direction of trout management for the Commission since that time.

The plan identifies opportunities for improvement of trout management in this Commonwealth, issues that affect the improvements and strategies for addressing those issues. One of the key issues addressed in the plan is the protection of Class A wild trout waters. Issue 2 of the plan states "There are a number of streams that may hold Class A biomass trout populations that have not been officially designated as Class A streams by the [Commission]. This leads to inadequate water quality protection for these waters and inconsistent application of fisheries management strategies." The identified strategy to address this specific issue is "By 2014, sample waters identified by [Commission] staff as likely to support a Class A wild trout biomass and designate appropriately." These evaluations have been ongoing. It should be noted that this issue is separate from the identification of unassessed Class A waters, which the Commission has been addressing since adoption of the plan. The waters to which Issue 2 of the plan applies are waters for which

historical data is present but which have not been officially designated as Class A.

A work group, comprised of several Commissioners and Commission staff, was formed to gather background information related to the Class A issue. Using this information, the Commission identified several changes to the current policy that should be made so that Class A waters can be properly identified and protected.

E. Summary of Proposed Revisions

One proposed change to § 57.8a addresses the criteria that must be met to designate a stream section with a mixed wild brown trout/rainbow trout or wild brook trout/rainbow trout population as a Class A water. These populations are not addressed in the current policy.

Another proposed change addresses the criteria for removing a water from the Class A list. With the proposed change, removal of a water from Class A status will be limited to those waters in which some environmental or human induced physical change has occurred that is highly unlikely to be reversible and thus renders the stream incapable of sustaining a Class A trout population.

The Commission proposes the amendments to § 57.8a as set forth in Annex A.

F. Paperwork

The proposed statement of policy will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The proposed statement of policy will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed statement of policy will not impose new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed statement of policy to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/reg comments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-251. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 57. STATEMENTS OF POLICY

Subchapter A. FISHERIES POLICIES

§ 57.8a. Class A wild trout streams.

It is the policy of the Commission to manage self-sustaining Class A wild trout populations as a renewable

natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. These stream sections are managed solely for the perpetuation of the wild trout fishery with no stocking.

* * * * *

(2) Wild Trout Abundance Class Criteria include provisions for:

* * * * *

(iv) *Wild rainbow trout fisheries.* Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 2.0 kg/ha (1.78 lbs/acre).

(v) *Mixed wild brook and rainbow trout fisheries.*

(A) Combined brook and rainbow trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brook trout biomass shall comprise less than 75% of the total trout biomass.

(E) Rainbow trout biomass shall comprise less than 75% of the total trout biomass.

(vi) *Mixed wild brown and rainbow trout fisheries.*

(A) Combined brown and rainbow trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brown trout biomass shall comprise less than 75% of the total trout biomass.

(E) Rainbow trout biomass shall comprise less than 75% of the total trout biomass

(3) [For a water to] A water will not be removed from the Class A Wild Trout Streams designation [, total trout biomass shall be documented below the set criteria for two consecutive stream examinations] unless the cause leading to the reduction in the wild trout population has been clearly identified and it has been determined that the water is beyond remediation to re-establish the Class A wild trout population. Possible reasons include the following:

(i) Human caused conditions or sources of pollution prevent the attainment of a Class A wild trout fishery and cannot be remedied or will cause more environmental damage to correct than to leave in place.

(ii) Dams, diversions or other types of hydrologic modifications preclude the attainment of a Class A wild trout fishery, and it is not feasible to restore the water body to its original condition or to operate the modification in a way that will result in the attainment of a Class A wild trout fishery.

[Pa.B. Doc. No. 13-1671. Filed for public inspection September 18, 2013, 9:00 a.m.]

[(6)] (5) Issuing agents shall permit the inspection during regular business hours of the agent's premises and business records by Commission employees designated by the Executive Director or officers authorized to enforce the code.

(f) *Issuance of temporary boat registrations.*

* * * * *

(6) [An issuing agent shall issue temporary validation decals in numerical sequence, beginning with the lowest number.] An issuing agent shall enter the expiration date (month/day/year) on the completed application which will be recognized as the boat's temporary registration.

(7) [An issuing agent shall indicate on temporary validation decals the month, day and year the temporary registration expires, using a black waterproof permanent ink marker or paint marker. The agency may not place any other marks on the decal.]

(8) [Within 10 days of the issuance of a temporary boat registration, the issuing agent shall submit to the Commission a properly completed "[T-Sticker] Temporary Registration Summary Report" (Form PFBC-725) along with all applications, related documentation, applicable fees and Sales and Use Tax as required by the code, this chapter and the *Handbook for Issuing Pennsylvania Boat Registrations and Titles*.]

(g) [*Inventory of decals.* Upon the Commission's request, an issuing agent shall submit an inventory report on the form prescribed by the Commission, accounting for all temporary validation decals in the agent's possession. The agent shall submit a complete and accurate inventory within 10 days of the agent's receipt of the Commission's request.]

(h) *Voided decals.* When an issuing agent voids a temporary validation decal, the agent shall forward to the Commission the voided decal along with a report on the form prescribed by the Commission, explaining why the decal was voided. The agent shall forward the voided decal and the report within 10 days of the decal being voided.

(i) *Lost, stolen or missing decals.* An issuing agent shall notify the Commission in writing of any lost, stolen or missing temporary validation decal within 48 hours of the agent's discovery of the lost, stolen or missing decal. The Commission may charge the agent a fee that is two times the highest annual boat registration fee for each decal that is lost, stolen or missing.

(j) *Replacement decals.* An issuing agent may not issue a replacement temporary validation decal without the Commission's approval.

(k) [*Used boats sold by dealers.* An issuing agent may not submit to the Commission a Form REV-336 and related documentation from an applicant who purchased a used boat from a dealer and does not possess a properly completed "Dealer Notification of Boat Trade-In" (Form PFBC-TS1).]

[(l)] (h) *Acceptance of applications for permanent registrations or titles.* Within 10 days of the acceptance of the Form REV-336 and related documentation for a permanent registration or title, the issuing agent shall forward to the Commission, using the "[T-Sticker] Temporary Registration Summary Report" (Form

PFBC-725), all applications, related documentation, applicable fees and Sales and Use Tax as required by the code [or], this chapter and the *Handbook for Issuing Pennsylvania Boat Registrations and Titles*.

[(m)] (i) *Commission offices.* The Commission will collect and deposit in the Boat Fund the \$2 issuing agent fee for all temporary boat registrations issued by Commission offices and boat registration renewals issued online.

[(n)] (j) *Recall of agency.* The Commission may recall the agency of an issuing agent who violates the code or this chapter. A conviction of an offense under the code or this chapter is not a prerequisite to initiating an action to recall an agency. The Executive Director or a designee may initiate action to recall an agency by serving an order to show cause on the agent, which order will describe the alleged violation of the code or this chapter. Proceedings to recall an agency shall be governed by 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

[(o)] (k) *Renewal of boat registrations.* It is unlawful for a person, other than the Commission, Commission offices and on-line messenger services approved by the Department of Transportation, to issue renewals for boat registrations or collect the applicable fees.

[Pa.B. Doc. No. 13-1668. Filed for public inspection September 13, 2013, 9:00 a.m.]

[58 PA. CODE CH. 63]

Fishing; Authorized Devices

The Fish and Boat Commission (Commission) proposes to amend Chapter 63 (relating to general fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. *Statutory Authority*

The proposed amendments to § 63.6 (relating to authorized devices for game fish, baitfish and fishbait) are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. *Purpose and Background*

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Section 63.6(a) limits the number of hooks per line to three (a single hook, as defined in this Commonwealth, may contain up to three points). Recently, several individuals and a representative from a tournament angling

organization requested that the Commission accommodate use of the "Alabama rig." The Alabama rig is an umbrella type rig that contains five lures on short wire lines that merge to one point for attachment to a fishing line. The Alabama rig has been observed to be used in this Commonwealth by the Division of Fisheries Management staff as fished with three hooked lures and two "teaser" lures not containing hooks. After the Bureau of Fisheries and the Bureau of Law Enforcement explored the issue, a sound biological or enforcement reason was not found to change the regulation to allow for this type of tackle.

Although initial interest to change the regulation came from a black bass organization, changes to the regulation would affect other species as well. Striped bass anglers also use this type of device.

With respect to black bass, it appears that use of the rig in other states has been directed to a rather small component of black bass populations, that is, bass that occupy habitats that were lightly exploited or that were previously not vulnerable to capture using conventional gear types. Where habitats exist and are occupied by black bass in this Commonwealth, the Commission might expect an increase in catch. The fraction of catch that is harvested is typically low for black bass, 7% as measured in the 2007 Susquehanna River Creel survey. Likewise, the percentage of released bass that perish is typically low (10-12%) as measured in reservoirs in this Commonwealth and elsewhere using conventional tackle. Commission staff presume that catch and release loss associated with the Alabama Rig will likewise be low.

Commission staff looked at the regulations of surrounding states and found that there is not a real consensus in terms of a limit on hooks. Several states allow more than three hooks or do not have a limit on hooks. New Jersey allows up to nine hooks or three treble hooks per line while New York allows five baits/lures. Virginia and West Virginia do not have limits on rods or hooks except for trout fishing. Ohio is the only state that has a regulation that closely mirrors the Commonwealth's with a two-rod/three-hook maximum.

The Commission therefore proposes to amend § 63.6 to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/req comments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the

comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-249. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.6. Authorized devices for game fish, baitfish and fishbait.

(a) It is unlawful to fish for game fish with more than three lines of any description, whether fished by rod or by hand, at one time except while ice fishing in accordance with § 63.10 (relating to ice fishing). [No more than three hooks may be attached to line used in fishing for game fish.] There is not a restriction on the number of hooks used for fishing for game fish. Rods, lines and hooks shall be under the immediate control of the person using them. A fishing device shall be deemed to be under the immediate control of the person using it if, when the terminal device (hook, bait or lure) is taken by a fish, the person using the device has direct control over it and it is not connected at that point to a casting or depth placement aid such as a casting boat or downrigger. Casting or depth placement aids such as downriggers or small remote controlled boats are not prohibited by this chapter.

(b) It is unlawful to fish for baitfish with more than three lines of any description, whether fished by rod or by hand, at one time [with not more than three hooks attached to each line]; a dip-net or minnow seine not over 4 feet square or 4 feet in diameter, and a minnow trap, with not more than two openings, which may not exceed 1 inch in diameter. There is not a restriction on the number of hooks used for fishing for baitfish. Rods, lines, hooks, nets and seines used in fishing for fishbait and baitfish shall be under the immediate control of the person using the same. For the purposes of this subpart, gizzard shad (*Dorosoma cepedianum*) 8 inches or less in length are considered baitfish.

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[Pa.B. Doc. No. 13-1669. Filed for public inspection September 13, 2013, 9:00 a.m.]

[58 PA. CODE CH. 69]

Fishing; Lake Erie and Boundary Lakes

The Fish and Boat Commission (Commission) proposes to amend Chapter 69 (relating to fishing in Lake Erie and boundary lakes). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).